

104TH CONGRESS  
2D SESSION

# H. R. 4182

To enhance competition in the financial services sector and merge the  
commercial bank and savings association charters.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1996

Mrs. ROUKEMA (for herself, Mr. MCCOLLUM, Mr. VENTO, Mr. DREIER, Ms. FURSE, Mr. FLAKE, Mr. KING, Mr. BONO, and Ms. MCKINNEY) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Depository Institution Affiliation and Thrift Charter  
6 Conversion Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—FINANCIAL SERVICES HOLDING COMPANY ACT

Sec. 101. Short title.

#### Subtitle A—General Provisions

- Sec. 102. Definitions.
- Sec. 103. Changes in control of depository institutions.
- Sec. 104. Affiliate transactions.
- Sec. 105. Capital requirements.
- Sec. 106. Interstate acquisitions of insured banks.
- Sec. 107. Differential treatment prohibition; laws inconsistent with this Act.
- Sec. 108. Tying and insider lending provisions.
- Sec. 109. Reports, examination and enforcement.
- Sec. 110. Divestiture.
- Sec. 111. Criminal penalties.
- Sec. 112. Civil enforcement, cease-and-desist orders, civil money penalties, removal, and prohibition authority.
- Sec. 113. Judicial review.
- Sec. 114. National Financial Services Committee.

#### Subtitle B—Securities Activities of Financial Services Holding Companies

- Sec. 121. Limitation on securities activities of depository institutions affiliated with securities affiliates.
- Sec. 122. Safeguards relating to securities affiliates.
- Sec. 123. Joint standards relating to retail sales of certain nondeposit investment products.

#### Subtitle C—Insurance and Real Estate Development Activities of Financial Services Holding Companies

- Sec. 131. Limitation on insurance underwriting and real estate development activities of depository institutions.
- Sec. 132. Acquisition of preexisting insurance agency by bank holding companies.
- Sec. 133. Existing contracts.

### TITLE II—CONFORMING AMENDMENTS TO OTHER LAWS FOR FINANCIAL SERVICES HOLDING COMPANIES

- Sec. 201. Exemption of financial services holding companies from the Bank Holding Company Act of 1956.
- Sec. 202. Amendment to the Federal Reserve Act.
- Sec. 203. Amendments to the Banking Act of 1933.
- Sec. 204. Amendments to the Federal Deposit Insurance Act.
- Sec. 205. Amendment to the Community Reinvestment Act.
- Sec. 206. Amendment to the Federal Power Act.
- Sec. 207. Amendment to the Right to Financial Privacy Act.
- Sec. 208. Amendments to the International Banking Act.

### TITLE III—FUNCTIONAL REGULATION AMENDMENTS TO SECURITIES LAWS FOR FINANCIAL SERVICES HOLDING COMPANIES

#### Subtitle A—Broker Dealer Provisions

- Sec. 301. Definition of broker.
- Sec. 302. Definition of dealer.
- Sec. 303. Power to exempt from the definitions of broker and dealer.
- Sec. 304. Margin requirements.

### Subtitle B—Investment Company Provisions

- Sec. 311. Custody of investment company assets by affiliated bank.
- Sec. 312. Lending to an affiliated investment company.
- Sec. 313. Independent directors.
- Sec. 314. Additional SEC disclosure authority.
- Sec. 315. Definition of broker under the Investment Company Act of 1940.
- Sec. 316. Definition of dealer under the Investment Company Act of 1940.
- Sec. 317. Removal of the exclusion from the definition of investment adviser for  
banks that advise investment companies.
- Sec. 318. Definition of broker under the Investment Advisors Act of 1940.
- Sec. 319. Definition of dealer under the Investment Advisors Act of 1940.
- Sec. 320. Interagency consultation.
- Sec. 321. Treatment of bank common trust funds.
- Sec. 322. Investment advisers prohibited from having controlling interest in  
registered investment company.
- Sec. 323. Conforming change in definition.
- Sec. 324. Effective date.

### TITLE IV—WHOLESALE FINANCIAL INSTITUTIONS OWNED BY FINANCIAL SERVICES HOLDING COMPANIES

- Sec. 401. National wholesale financial institutions.
- Sec. 402. State member wholesale financial institutions.
- Sec. 403. Amendments to the Federal Deposit Insurance Act.

### TITLE V—MERGER OF BANK AND THRIFT CHARTERS, REGULATORS, AND INSURANCE FUNDS

#### Subtitle A—Conversion of Thrift Charters

- Sec. 501. Short title.
- Sec. 502. Termination of Federal savings associations; treatment of State sav-  
ings associations as banks for purposes of Federal banking law.
- Sec. 503. Treatment of certain activities and affiliations of bank holding com-  
panies resulting from this Act.
- Sec. 504. Transition provisions for activities of savings associations which con-  
vert into or become treated as banks.
- Sec. 505. Registration of bank holding companies resulting from conversions of  
savings associations to banks or treatment of savings associa-  
tions as banks.
- Sec. 506. Additional transition provisions and special rules.
- Sec. 507. Technical and conforming amendments.
- Sec. 508. References to savings associations and state banks in federal law.
- Sec. 509. Repeal of Home Owners' Loan Act.
- Sec. 510. Definitions.

#### Subtitle B—Elimination of Office of Thrift Supervision

- Sec. 511. Office of Thrift Supervision abolished.
- Sec. 512. Determination of transferred functions and employees.
- Sec. 513. Savings provisions.
- Sec. 514. Cost of funds indexes.
- Sec. 515. References in federal law to director of the Office of Thrift Super-  
vision.
- Sec. 516. Reconfiguration of board of directors of FDIC as a result of removal  
of director of the Office of Thrift Supervision.

Subtitle C—Merger of BIF and SAIF

Sec. 521. Amendment to Budget Reconciliation Act.

TITLE VI—NATIONAL MARKET FUNDED LENDING INSTITUTIONS

Sec. 601. National market funded lending institutions.

TITLE VII—EFFECTIVE DATE

Sec. 701. Effective date.

**1 SECTION 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) current laws and regulations restrain effi-  
 4 ciency, competition, and innovation in the design  
 5 and delivery of financial services to the disadvantage  
 6 of consumers;

7 (2) restrictions on ownership of depository insti-  
 8 tutions and affiliations with other business organiza-  
 9 tions interfere with their ability to attract and retain  
 10 capital and managerial resources;

11 (3) the vulnerability of the financial system and  
 12 its discrete components is increased and effective  
 13 monitoring, supervision, and coordination of actions  
 14 during periods of stress is impeded by fragmented  
 15 and disparate regulation;

16 (4) the thrift charter has become obsolete;

17 (5) market demand and safety and soundness  
 18 considerations warrant the creation of a new charter  
 19 for uninsured wholesale financial institutions; and

20 (6) current laws inhibit the ability of domestic  
 21 financial markets and intermediaries to respond to

1 the serious competitive challenges presented by for-  
2 eign intermediaries and the globalization of markets.

3 (b) PURPOSES.—The purposes of this Act are to pro-  
4 mote the safety and soundness of the Nation’s financial  
5 system, enhance the quality of regulation and supervision  
6 of financial intermediaries, and achieve a more efficient  
7 market and effective regulatory structure by—

8 (1) establishing an alternative and comprehen-  
9 sive legislative framework for the creation and regu-  
10 lation of financial services holding companies;

11 (2) enhancing the capital adequacy of commer-  
12 cial banks, brokers and dealers, and other financial  
13 companies by eliminating prohibitions on common  
14 ownership and affiliation within a financial services  
15 holding company;

16 (3) permitting affiliates to engage in regulated  
17 activities subject to functional and equal regulation  
18 by the appropriate Federal or State regulator;

19 (4) insulating and protecting insured depository  
20 institutions through enhanced capital requirements,  
21 expanded restrictions on relationships with affiliates,  
22 broader examination and enforcement authority, and  
23 increased civil and criminal penalties;

24 (5) permitting the efficient marketing and dis-  
25 tribution of financial services to consumers subject

1 to safeguards against coercive tie-ins and other un-  
 2 fair and abusive practices;

3 (6) establishing the National Financial Services  
 4 Committee to oversee the evolution and supervision  
 5 of the financial services industry and to report to the  
 6 Congress;

7 (7) eliminating the thrift charter and requiring  
 8 thrifts to convert to banks, subject to appropriate  
 9 transition provisions;

10 (8) merging the bank and thrift insurance  
 11 funds; and

12 (9) creating new State and Federal charters for  
 13 uninsured wholesale financial institutions.

14 **TITLE I—FINANCIAL SERVICES HOLDING**  
 15 **COMPANY ACT**

16 **SEC. 101. SHORT TITLE.**

17 This title may be cited as the “Financial Services  
 18 Holding Company Act”.

19 **Subtitle A—General Provisions**

20 **SEC. 102. DEFINITIONS.**

21 For purposes of this Act, the following definitions  
 22 apply.

23 (a) FINANCIAL SERVICES HOLDING COMPANY.—The  
 24 term “financial services holding company” means a com-  
 25 pany that—

1           (1) has filed with the National Financial Serv-  
2           ices Committee a notice stating such company's in-  
3           tent to comply with the requirements of this Act and  
4           has not withdrawn such notice;

5           (2) controls, acquires control of, or operates a  
6           depository institution; and

7           (3) is predominantly a financial company.

8           (b) COMPANY.—The term “company” means any cor-  
9           poration, partnership, business, trust, association, or simi-  
10          lar organization, or any other trust unless by its terms  
11          it must terminate within 25 years or not later than 21  
12          years and 10 months after the death of individuals living  
13          on the effective date of the trust, but shall not include  
14          any corporation the majority of the shares of which are  
15          owned by the United States or by any State.

16          (c) BANK HOLDING COMPANY.—The term “bank  
17          holding company” has the same meaning as in section  
18          2(a) of the Bank Holding Company Act of 1956.

19          (d) CONTROL.—Except as provided in section  
20          107(e)(2), the term “control” means, directly or indi-  
21          rectly, owns or has the power to vote 25 percent or more  
22          of any class of voting securities of a company, or has the  
23          power to elect a majority of the directors of a company,  
24          except that—

1           (1) no company shall be deemed to control or  
2           to have acquired control of any other company by  
3           virtue of its ownership of the voting securities of  
4           such other company—

5                   (A) acquired or held in an agency, trust, or  
6                   other fiduciary capacity, unless the company  
7                   has sole discretionary authority to exercise vot-  
8                   ing rights with respect thereto;

9                   (B) acquired or held in connection with or  
10                  incidental to the underwriting of securities if  
11                  such securities are held only for such period of  
12                  time as will permit the sale thereof on a reason-  
13                  able basis; or

14                  (C) acquired in securing or collecting a  
15                  debt previously contracted in good faith, until 2  
16                  years after the date of acquisition or for such  
17                  additional period of time as the appropriate  
18                  Federal banking agency may permit; and

19           (2) no company formed for the sole purpose of  
20           participating in a proxy solicitation shall be deemed  
21           to be in control of a company by virtue of its acqui-  
22           sition of voting rights with respect to shares of such  
23           company acquired in the course of such solicitation.

24           (e) AFFILIATE.—Except as provided in section  
25 107(e)(1), the term “affiliate” of a company means any

1 other company which controls, is controlled by, or is under  
2 common control with such company.

3 (f) SUBSIDIARY.—The term “subsidiary” has the  
4 same meaning as in section 2(d) of the Bank Holding  
5 Company Act of 1956.

6 (g) DEPOSITORY INSTITUTION AND INSURED DEPOS-  
7 ITORY INSTITUTION.—

8 (1) IN GENERAL.—The terms “depository insti-  
9 tution” and “insured depository institution” have  
10 the same meanings as in section 3 of the Federal  
11 Deposit Insurance Act, except that the term “depos-  
12 itory institution” also means—

13 (A) any wholesale financial institution; and

14 (B) any branch, agency, or commercial  
15 lending company operated in the United States  
16 by a foreign bank.

17 (2) EXCEPTION RELATED TO FOREIGN  
18 BANKS.—Notwithstanding paragraph (1)(B), the  
19 National Financial Services Committee may, for  
20 purposes of any section or provision of this Act, ex-  
21 empt from the definition of “depository institution”  
22 any branch, agency, or commercial lending company  
23 operated in the United States by a foreign bank as  
24 the Committee deems appropriate, provided that  
25 such exemption is—

1 (A) issued by regulation, and

2 (B) consistent with the principles of na-  
3 tional treatment and equality of competitive op-  
4 portunity.

5 (h) LEAD DEPOSITORY INSTITUTION.—The term  
6 “lead depository institution” means the largest depository  
7 institution controlled by the financial services holding  
8 company, based on a comparison of the average total as-  
9 sets controlled by each depository institution during the  
10 previous 12-month period.

11 (i) WHOLESALE FINANCIAL INSTITUTION.—The  
12 term “wholesale financial institution” means a national  
13 wholesale financial institution described in section 5136B  
14 of the Revised Statutes of the United States or a State  
15 member wholesale financial institution described in section  
16 9B of the Federal Reserve Act.

17 (j) FOREIGN BANK TERMS.—

18 (1) IN GENERAL.—The terms “agency”,  
19 “branch”, “foreign bank”, and “commercial lending  
20 company” have the same meaning as in Section 1(b)  
21 of the International Banking Act.

22 (2) COMMERCIAL LENDING COMPANY OPER-  
23 ATED BY A FOREIGN BANK.—The term “commercial  
24 lending company operated by a foreign bank” means

1 a commercial lending company controlled by a for-  
2 eign bank.

3 (3) BRANCH OR AGENCY OPERATED BY A FOR-  
4 EIGN BANK.—A branch or agency operated by a for-  
5 eign bank shall be deemed to be controlled by that  
6 foreign bank.

7 (k) DOMESTIC BRANCH.—The term “domestic  
8 branch” has the same meaning as in section 3(o) of the  
9 Federal Deposit Insurance Act;

10 (l) PREDOMINANTLY A FINANCIAL COMPANY.

11 (1) IN GENERAL.—A company is “predomi-  
12 nantly a financial company” if at least 75 percent  
13 of its business (in the United States) is derived  
14 from—

15 (A) financial service institutions controlled  
16 by such company; or

17 (B) financial activities engaged in by such  
18 company or any of its affiliates.

19 (2) FOREIGN BANK ALTERNATIVE.—As an al-  
20 ternative to a paragraph (1), a foreign bank, and  
21 any company of which a foreign bank is a subsidi-  
22 ary, is “predominantly a financial company” if—

23 (A) all of the business of such foreign bank  
24 and any such company (including the business

1 of direct and indirect subsidiaries of the foreign  
2 bank) in the United States is derived from—

3 (i) financial services institutions con-  
4 trolled or operated by such foreign bank;

5 (ii) financial activities engaged in by  
6 such foreign bank or any of its affiliates;

7 (iii) companies that, with respect to  
8 that foreign bank, would meet the stand-  
9 ard for investment under sections 2(h)(2)  
10 or 4(c)(9) of the Bank Holding Company  
11 Act of 1956 as if that foreign bank were  
12 subject to that Act; or

13 (iv) activities that, with respect to  
14 that foreign bank, would be permissible  
15 under section 4(c)(9) of the Bank Holding  
16 Company Act of 1956 if that foreign bank  
17 were subject to that Act; and

18 (B) the amount of banking business con-  
19 ducted outside the United States by such for-  
20 eign bank and such company of which that for-  
21 eign bank is a subsidiary satisfies the standard  
22 described in section 2(h)(2) of the Bank Hold-  
23 ing Company Act of 1956.

24 (3) RECIPROCAL NATIONAL TREATMENT.—

1           (A) IN GENERAL.—A foreign bank that op-  
2           erates a branch, agency or commercial lending  
3           company in the United States, and any com-  
4           pany that owns or controls such a foreign bank,  
5           shall be eligible for the treatment afforded  
6           under paragraph (1) and section 122(m) only if  
7           the home country of such foreign bank or com-  
8           pany accords to the United States banks the  
9           same competitive opportunities in banking as  
10          such country accords to domestic banks of such  
11          country.

12          (B) COORDINATION WITH NAFTA.—Sub-  
13          paragraph (A) shall not apply in derogation of  
14          any obligation under the North American Free  
15          Trade Agreement.

16          (C) HOME COUNTRY DEFINED.—For pur-  
17          poses of subparagraph (A), the term “home  
18          country” means, with respect to any foreign  
19          bank or company referred to in subparagraph  
20          (A), the country under the laws of which the  
21          foreign bank or company is organized.

22          (4) INTERPRETIVE AUTHORITY.—The National  
23          Financial Services Committee shall issue regulations  
24          describing the method for calculating compliance  
25          with the standard described in paragraphs (1) and

1       (2), taking into account such factors as revenues  
2       and assets, including assets under management.

3           (5) IMPLEMENTATION AND AUTHORITY.—The  
4       appropriate Federal banking agency of the lead de-  
5       pository institution of a financial services holding  
6       company shall implement and enforce the regula-  
7       tions prescribed pursuant to paragraph (4) with re-  
8       spect to such holding company.

9       (m) FINANCIAL SERVICES INSTITUTION.—The term  
10   “financial services institution” means—

11           (1) A depository institution;

12           (2) A broker or dealer (as defined in section 3  
13       of the Securities Exchange Act of 1934);

14           (3) A futures commission merchant (as defined  
15       in section 1(a)(12) of the Commodity Exchange  
16       Act);

17           (4) An investment company (as defined in sec-  
18       tion 3 of the Investment Company Act of 1940);

19           (5) An investment adviser (as defined in section  
20       202(a)(11) of the Investment Act of 1940);

21           (6) An insurance company organized or licensed  
22       under the law of any State, including a company  
23       that only incurs liabilities under annuity contracts,  
24       the income on which is tax deferred under Section  
25       72 of the Internal Revenue Code of 1986;

1           (7) A trust company organized under the laws  
2 of the United States or the laws of any State; or

3           (8) A national market funded lending institu-  
4 tion organized pursuant to section 5158 of the Re-  
5 vised Statutes of the United States, as added by sec-  
6 tion 601 of the Depository Institution Affiliation and  
7 Thrift Charter Conversion Act;

8           (9) Any other type of company that is “engaged  
9 in the business of providing financial services”, as  
10 determined by the National Financial Services Com-  
11 mittee by rule, regulation, or order.

12       (n) FINANCIAL ACTIVITIES.—The term “financial ac-  
13 tivities” means any of the following—

14           (1) receiving money subject to a deposit or  
15 other repayment obligation;

16           (2) lending, exchanging, transferring or safe-  
17 guarding money or other financial assets;

18           (3) providing any device or other instrumentality  
19 for the transfer of money or other financial as-  
20 sets;

21           (4) insuring, guaranteeing or indemnifying  
22 against loss, harm, damage, illness, disability or  
23 death;

24           (5) providing financial, investment or economic  
25 advisory or information services, including advising

1 an investment company (as defined in section 3 of  
2 the Investment Company Act of 1940);

3 (6) directly or indirectly acquiring or control-  
4 ling, whether as principal, on behalf of 1 or more en-  
5 tities (including entities, other than a depository in-  
6 stitution or subsidiary of a depository institution,  
7 that the financial services holding company con-  
8 trols), or otherwise, shares, assets, or ownership in-  
9 terests (including without limitation debt or equity  
10 securities, partnership interests, trust certificates, or  
11 other instruments representing ownership) of a com-  
12 pany or other entity, whether or not constituting  
13 control of such company or entity, engaged in any  
14 activity if—

15 (A) the shares, assets, or ownership inter-  
16 ests are not acquired or held by a depository in-  
17 stitution or a subsidiary of a depository institu-  
18 tion;

19 (B) such shares, assets, or ownership in-  
20 terests are acquired and held as part of a bona  
21 fide underwriting, investment banking, or insur-  
22 ance company investment activity, which in-  
23 cludes investment activities engaged in for the  
24 purpose of appreciation and ultimate resale or  
25 other disposition of the investment, and such

1 shares, assets, or ownership interest are held  
2 for such a period of time as will permit the sale  
3 or disposition thereof on a reasonable basis con-  
4 sistent with the nature of such activities; and

5 (C) during the period such shares, assets,  
6 or ownership interests are held, the financial  
7 services holding company does not actively man-  
8 age or operate the company or entity except in-  
9 sofar as necessary to achieve the objectives of  
10 subparagraph (B);

11 (7) arranging, effecting or facilitating financial  
12 transactions for the account of third parties;

13 (8) underwriting, dealing in or making a mar-  
14 ket in securities;

15 (9) engaging in any activity that is permissible  
16 for a bank holding company pursuant to section  
17 4(c)(8) of the Bank Holding Company Act of 1956  
18 by rule, order or regulation;

19 (10) engaging in any activity (in the United  
20 States) that is—

21 (A) permissible for a bank holding com-  
22 pany to engage in outside the United States,  
23 and

24 (B) considered a financial activity or bank-  
25 ing or financial operation, pursuant to section

1           4(c)(13) of the Bank Holding Company Act of  
2           1956 or any rule, order, or regulation issued  
3           thereunder;

4           (11) owning shares of any company that would  
5           be permissible for a bank holding company to own  
6           pursuant to sections 4(c)(6) and 4(c)(7) of the Bank  
7           Holding Company Act of 1956;

8           (12) engaging in the functional equivalent of  
9           any of the foregoing; or

10          (13) engaging in any activity that the National  
11          Financial Services Committee determines by rule,  
12          order, or regulation to be financial in nature or inci-  
13          dental to such financial activities, taking into ac-  
14          count—

15                (A) changes or reasonably expected  
16                changes in the marketplace in which financial  
17                services holding company compete;

18                (B) changes or reasonably expected  
19                changes in the technology by which financial  
20                services are delivered; or

21                (C) whether such activity is necessary or  
22                appropriate to—

23                       (i) allow a financial services holding  
24                       company and its affiliates to compete effec-

1                   tively against any company seeking to pro-  
 2                   vide financial services in the United States;

3                   (ii) use any available or emerging  
 4                   technological means to provide financial  
 5                   services; or

6                   (iii) offer customers any available or  
 7                   emerging technological means for using fi-  
 8                   nancial services.

9           (o) APPROPRIATE FEDERAL BANKING AGENCY.—

10   The term “appropriate Federal banking agency” has the  
 11   same meaning as in section 3 of the Federal Deposit In-  
 12   surance Act.

13           (p) STATE.—The term “State” has the same mean-  
 14   ing as in section 3 of the Federal Deposit Insurance Act.

15           (q) CAPITAL TERMS.—

16               (1) IN GENERAL.—The terms “adequately cap-  
 17               italized” and “well capitalized” have the same mean-  
 18               ings as in—

19                       (A) section 38(b)(1) of the Federal Deposit  
 20               Insurance Act with respect to an insured depos-  
 21               itory institution;

22                       (B) section 9B(c)(2)(B) of the Federal Re-  
 23               serve Act with respect to a State member  
 24               wholesale financial institution; and

1 (C) section 5136(B)(e) of the Revised  
2 Statutes of the United States with respect to a  
3 national wholesale financial institution.

4 (2) FOREIGN BANK CAPITAL.—With respect to  
5 a branch, agency, or commercial lending company  
6 operated in the United States by a foreign bank, the  
7 terms “adequately capitalized” and “well capital-  
8 ized” shall be defined and established by the Na-  
9 tional Financial Services Committee for purposes of  
10 this Act, provided that such capital standards—

11 (A) are comparable to the capital stand-  
12 ards that apply to other depository institutions  
13 for purposes of this Act; and

14 (B) give due regard to the principle of na-  
15 tional treatment and equality of competitive op-  
16 portunity.

17 (r) SECURITIES AFFILIATE.—The term “securities  
18 affiliate” means a company that—

19 (1) is an affiliate of a financial services holding  
20 company, other than a depository institution; and

21 (2) underwrites or deals in any security; and

22 (3) is (or is required to be) registered under the  
23 Securities Exchange Act of 1934 as a broker or  
24 dealer,

1 but does not include a company that underwrites or deals  
2 exclusively in securities that are expressly authorized by  
3 section 5136 of the Revised Statutes of the United States  
4 as permissible for a national bank to underwrite or deal  
5 in.

6 **SEC. 103. CHANGES IN CONTROL OF DEPOSITORY INSTITU-**  
7 **TIONS.**

8 No financial services holding company acting directly  
9 or indirectly, or through or in concert with one or more  
10 other persons, all acquire control of a depository institu-  
11 tion, bank holding company, or financial services holding  
12 company not controlled by such company on the date it  
13 became a financial services holding company, if such ac-  
14 quisition and control occurs through a purchase, assign-  
15 ment, transfer, pledge, or other deposition of voting stock  
16 of such depository institution, bank holding company, or  
17 financial services holding company, unless the financial  
18 services holding company has complied with the require-  
19 ments of section 7(j) of the Federal Deposit Insurance  
20 Act. Any failure to comply with the preceding require-  
21 ments shall subject the relevant financial services holding  
22 company to the penalties and other procedures provided  
23 in sections 109 through 112, in addition to otherwise ap-  
24 plicable penalties.

1 **SEC. 104. AFFILIATE TRANSACTIONS.**

2 (a) APPLICABILITY OF SECTIONS 23A AND 23B OF  
3 THE FEDERAL RESERVE ACT.—

4 (1) IN GENERAL.—The provisions of sections  
5 23A and 23B of the Federal Reserve Act shall be  
6 applicable to every depository institution controlled  
7 by a financial services holding company in the same  
8 manner and to the same extent as if such depository  
9 institution were a member bank; and for this pur-  
10 pose, any company which would be an affiliate of a  
11 depository institution for purposes of such sections  
12 23A and 23B if such depository institution were a  
13 member bank shall be deemed to be an affiliate of  
14 such depository institution.

15 (2) APPLICABILITY TO FOREIGN BANKS.—A de-  
16 pository institution that is a branch, agency or com-  
17 mercial lending company operated in the United  
18 States by a foreign bank that is a financial services  
19 holding company shall be deemed to satisfy the re-  
20 quirements of paragraph (1) if all of the trans-  
21 actions between the depository institution and any of  
22 the following companies affiliated with the deposi-  
23 tory institution comply with the provisions of Sec-  
24 tions 23A and 23B of the Federal Reserve Act in  
25 the same manner and to the same extent as if the  
26 foreign bank were a member bank—

1 (A) a securities affiliate; and

2 (B) any company that is neither a finan-  
3 cial services institution nor primarily engaged  
4 in financial activities, other than, with respect  
5 to a foreign bank that qualifies as “predomi-  
6 nantly a financial company” under section  
7 102(l)(2) rather than section 102(l)(1), an affil-  
8 iate that is held and operated in compliance  
9 with the standards of sections 2(h)(2) and  
10 2(h)(4) of the Bank Holding Company Act of  
11 1956 that would apply if the foreign bank were  
12 subject to that Act.

13 (b) ADDITIONAL LIMITATIONS ON AFFILIATE TRANS-  
14 ACTIONS.—

15 (1) IN GENERAL.—The appropriate Federal  
16 banking agency may, upon a finding of probable  
17 harm that cannot adequately be prevented by less  
18 burdensome rules and regulations, adopt such rules  
19 and regulations, consistent with the purposes of this  
20 Act, as may be necessary in order to prevent a de-  
21 pository institution that is controlled or operated by  
22 a financial services holding company from engaging  
23 in unsafe or unsound practices that involve the fi-  
24 nancial services holding company or any of its affili-  
25 ates including, without limitation, unsafe or unsound

1 practices that involve covered transactions, as de-  
2 fined in section 23A of the Federal Reserve Act, and  
3 any transactions described in section 23B(a)(2) of  
4 the Federal Reserve Act.

5 (2) REGULATORY ACTIVITY.—Any rule or regu-  
6 lation adopted pursuant to paragraph (1) shall be  
7 adopted in accordance with section 553 of title 5,  
8 United States Code, except that the appropriate  
9 Federal banking agency shall give interested persons  
10 an opportunity for oral presentations of data, views,  
11 and arguments, in addition to written submissions.

12 (3) APPLICATION TO PRIOR APPROVED TRANS-  
13 ACTIONS.—Any transaction that was approved by an  
14 appropriate Federal banking agency before the date  
15 of enactment of this Act shall be exempt from any  
16 rules or regulations adopted pursuant to paragraph  
17 (1).

18 (c) EXCEPTIONS.—With the concurrence of the Na-  
19 tional Financial Services Committee, the appropriate Fed-  
20 eral banking agency may, by rule, regulation or order, ex-  
21 empt any depository institution that is controlled by a fi-  
22 nancial services holding company or class of such institu-  
23 tions, or any transaction or class of transactions (includ-  
24 ing transactions with affiliates that are neither located nor  
25 doing business in the United States) from any require-

1 ment under subsection (b)(1) or section 23A or 23B of  
2 the Federal Reserve Act, notwithstanding the provisions  
3 of any other law, rule, regulation or order, if the appro-  
4 priate Federal banking agency deems such an exemption  
5 to be reasonable and not inconsistent with the purposes  
6 of this Act and in the public interest.

7 (d) SAFEGUARDS RELATING TO NONFINANCIAL AF-  
8 FILIATES.—

9 (1) IN GENERAL.—Except as permitted pursu-  
10 ant to regulations issued by the National Financial  
11 Services Committee, no depository institution con-  
12 trolled by a financial services holding company shall  
13 directly or indirectly extend credit, or issue or enter  
14 into a standby letter of credit, indemnity, guarantee,  
15 insurance, or other similar facility to or for the ben-  
16 efit of any affiliate that is neither a financial serv-  
17 ices institution nor primarily engaged in financial  
18 activities.

19 (2) EXCEPTION FOR CERTAIN FOREIGN  
20 BANKS.—A depository institution that is a branch,  
21 agency, or commercial lending company operated or  
22 controlled by a foreign bank that—

23 (A) is a financial services holding com-  
24 pany; and

1 (B) qualifies as “predominantly a financial  
2 company” under section 102(l)(2) rather than  
3 section 102(l)(1);

4 shall not be subject to the limitation described in  
5 paragraph (1) with respect to transactions with af-  
6 filiates that, with respect to that foreign bank, are  
7 held and operated in compliance with the standard  
8 for investment under section 2(h)(2) of the Bank  
9 Holding Company Act of 1956 that would apply if  
10 that foreign bank were subject to that Act.

11 (e) PRIMARILY ENGAGED IN FINANCIAL ACTIVI-  
12 TIES.—For purposes of subsections (a)(2)(B) and (d)(1),  
13 the term “primarily engaged in financial activities” shall  
14 be defined by regulation by the National Financial Serv-  
15 ices Committee.

16 **SEC. 105. CAPITAL REQUIREMENTS.**

17 (a) WELL-CAPITALIZED DEPOSITORY INSTITU-  
18 TIONS.—Each depository institution that is controlled by  
19 a financial services holding company shall be well capital-  
20 ized.

21 (b) ACTIONS BY APPROPRIATE FEDERAL BANKING  
22 AGENCY.—In the event of a finding by the appropriate  
23 Federal banking agency that a depository institution con-  
24 trolled by a financial services holding company is not well  
25 capitalized, the financial services holding company shall—

1           (1) execute an agreement with the appropriate  
2       Federal banking agency within 30 days to return the  
3       depository institution within a reasonable period of  
4       time to being well capitalized; or

5           (2) divest control of the depository institution  
6       in an orderly manner within 180 days, or such addi-  
7       tional period of time as the appropriate Federal  
8       banking agency may determine is reasonably re-  
9       quired in order to effect such divestiture.

10       (c) NO HOLDING COMPANY CAPITAL REQUIRE-  
11   MENTS.—An appropriate Federal banking agency may not  
12   impose by regulation, order, agreement, or any other  
13   means, any requirement pertaining to the capital of a fi-  
14   nancial services holding company.

15   **SEC. 106. INTERSTATE ACQUISITIONS OF INSURED BANKS.**

16       (a) INSURED BANKS.—Except as otherwise author-  
17   ized pursuant to section 13(f) of the Federal Deposit In-  
18   surance Act, no financial services holding company may  
19   acquire control of an additional insured bank (as such  
20   term is defined in section 2(c) of the Bank Holding Com-  
21   pany Act of 1956) if the acquisition could not be approved  
22   by the Board of Governors of the Federal Reserve System  
23   under any provision of section 3(d) of the Bank Holding  
24   Company Act of 1956, other than subsection (d)(1)(A),  
25   if such acquisition were made by a bank holding company.

1 (b) TREATMENT OF FINANCIAL SERVICES HOLDING  
2 COMPANIES AND SUBSIDIARIES.—For purposes of section  
3 18(r) of the Federal Deposit Insurance Act, a financial  
4 services holding company shall be treated as a bank hold-  
5 ing company, and any depository institution affiliate of a  
6 financial services holding company shall be treated as a  
7 bank subsidiary.

8 **SEC. 107. DIFFERENTIAL TREATMENT PROHIBITION; LAWS**  
9 **INCONSISTENT WITH THIS ACT.**

10 (a) IN GENERAL.—Notwithstanding any other Fed-  
11 eral law, no State, and no Federal or State regulatory  
12 agency, including the appropriate Federal banking agency,  
13 may act by law, rule, regulation, order, or otherwise if the  
14 effect of such action would be to differentiate depository  
15 institutions controlled by financial services holding compa-  
16 nies from any other depository institutions in a manner  
17 adverse to depository institutions controlled by financial  
18 services holding companies, or to differentiate financial  
19 services holding companies or their affiliates from bank  
20 holding companies and their affiliates in a manner adverse  
21 to financial services holding companies or their affiliates,  
22 except to the extent that the appropriate Federal banking  
23 agency may act to implement this Act.

24 (b) APPLICATION OF STATE LAWS.—

25 (1) FINDINGS.—The Congress finds that:

1           (A) Certain State laws and regulations  
2           have the purpose or effect of preventing deposi-  
3           tory institutions from being or becoming affili-  
4           ated with, companies or persons engaged in  
5           nonbanking activities.

6           (B) Such laws restrain legitimate competi-  
7           tion in interstate commerce and deny consum-  
8           ers freedom of choice in selecting financial serv-  
9           ices.

10          (C) Such restrictions also threaten the  
11          long-term safety and soundness of depository  
12          institutions by denying them access to capital.

13          (D) Given the preponderant Federal inter-  
14          est in ensuring competition in national markets  
15          for financial services and in ensuring the safety  
16          and soundness of depository institutions, it is  
17          necessary to preempt such anticompetitive State  
18          laws and regulations to the extent necessary to  
19          permit the formation and efficient operation of  
20          financial services holding companies.

21          (E) There is, however, a legitimate and  
22          traditional State interest in ensuring that State  
23          depository institutions and other State-char-  
24          tered or licensed companies are operated in a

1 safe and sound manner to serve the interests of  
2 the public and consumers.

3 (F) The preemption provided in paragraph  
4 (2) is not intended to preempt State laws that  
5 concern the regulation, supervision, and exam-  
6 ination of State chartered or licensed entities,  
7 and that are not inconsistent with the purposes  
8 of this Act.

9 (2) PREEMPTIONS.—

10 (A) CROSS-MARKETING.—Any provision of  
11 Federal or State law, rule, regulation, or order  
12 that is expressly or impliedly inconsistent with  
13 the provisions and purposes of this Act is here-  
14 by preempted, including, without limitation,  
15 State banking, savings and loan, insurance, real  
16 estate, securities, finance company, retail, or  
17 other laws which have the purpose or effect  
18 of—

19 (i) preventing or impeding depository  
20 institutions or affiliates, agents, principals,  
21 brokers, directors, officers, employees, or  
22 other representatives of such institutions  
23 or affiliates thereof, as a result of the  
24 types of nonbanking activities engaged in  
25 directly or indirectly by such company or

1 any affiliate thereof or by any agent, prin-  
2 cipal, solicitor, broker, director, officer,  
3 employee, or other representative of such  
4 company or affiliate thereof, from being  
5 owned or controlled by or from being affili-  
6 ated in any way with a financial services  
7 holding company or any affiliate thereof;  
8 or

9 (ii) preventing or impeding depository  
10 institutions or affiliates, agents, principals,  
11 brokers, directors, officers, employees or  
12 other representatives of such institutions  
13 or affiliates thereof from offering or mar-  
14 keting products or services of their affili-  
15 ated financial services holding company or  
16 any affiliate thereof or from having their  
17 products or services offered or marketed by  
18 their affiliated financial services holding  
19 company or any affiliate thereof, or by any  
20 agent, principal, broker, director, officer,  
21 employee, or other representative of such  
22 company or affiliate thereof.

23 (B) INFORMATION SHARING.—

24 (i) IN GENERAL.—Notwithstanding  
25 any other provision of law, any depository

1 institution, or any affiliate or subsidiary of  
2 any depository institution, may share or  
3 exchange information or otherwise transfer  
4 information between or among themselves  
5 without any restriction or limitation if it is  
6 clearly and conspicuously disclosed that the  
7 information may be communicated among  
8 such persons and the consumer is given  
9 the opportunity, before the time that the  
10 information is initially communicated, to  
11 direct that such information not be com-  
12 municated among such persons.

13 (ii) DEFINITION.—For purposes of  
14 this subsection, the term “information”  
15 means any and all data, records, or other  
16 information and material obtained or  
17 maintained by any depository institution or  
18 any affiliate or subsidiary thereof in the  
19 ordinary course of its business that relates  
20 in any way to a person who applies for,  
21 maintains, or has maintained an account  
22 or credit relationship with or applied for,  
23 purchased or obtained other products or  
24 services from any depository institution or  
25 any affiliate or subsidiary of any depository

1           tory institution, regardless of the source or  
2           manner in which the information is ob-  
3           tained or furnished.

4       (c) LAWS AFFECTING COURT ACTIONS.—

5           (1) IN GENERAL.—No State or State regulatory  
6           agency may act by law, rule, regulation, or order if  
7           the effect of such action would be to impede or pre-  
8           vent a depository institution that is located in an-  
9           other State from qualifying to maintain or defend in  
10          court any action which could be maintained or de-  
11          fended under similar circumstances by a company  
12          that is located in such other State and that is not  
13          a depository institution, if the depository institution  
14          does not establish or operate in that State a domes-  
15          tic branch.

16          (2) EXCEPTION.—Where the maintenance or  
17          defense of a court action referred to in paragraph  
18          (1) by a company that is located in such other State  
19          and that is not a depository institution is subject to  
20          certain conditions, the maintenance or defense of  
21          such an action by a depository institution located in  
22          such other State may be subject to those same con-  
23          ditions, if such conditions are applied in a non-  
24          discriminatory manner to fulfill legitimate State ob-  
25          jectives and do not have the effect, directly or indi-

1 rectly, of denying depository institutions located in  
2 other States the opportunity to maintain or defend  
3 such actions.

4 (d) OTHER RESTRICTIONS.—Except for licensing,  
5 marketing, compensation, employment, or other require-  
6 ments applied in a nondiscriminatory manner to fulfill le-  
7 gitimate State regulatory objectives which are not incon-  
8 sistent with the purposes of this Act, no State may,  
9 through legislative, administrative, executive, or judicial  
10 action, impede or prevent a financial services holding com-  
11 pany or affiliate thereof from utilizing or compensating  
12 any agent (including an affiliated depository institution  
13 acting in accordance with section 18(r) of the Federal De-  
14 posit Insurance Act), solicitor, broker, employee, or other  
15 person located in that State and representing in any lawful  
16 capacity any depository institution or any such financial  
17 services holding company or such affiliate thereof, pro-  
18 vided that if any such person is being utilized or com-  
19 pensated for the performance of activities on behalf of a  
20 depository institution, such activities do not result in the  
21 establishment or operation by the depository institution of  
22 a domestic branch at any location other than the main  
23 or branch offices of such depository institution.

24 (e) DEFINITIONS.—As used in subsections (b)  
25 through (d) only—

1           (1) the term “affiliate” means a person that di-  
2       rectly or indirectly controls or is controlled by, or is  
3       under common control with the person specified; and

4           (2) the term “control,” including the terms  
5       “controlled by” and “under common control with,”  
6       means the power, directly or indirectly, to direct the  
7       management or policies of a person and shall be pre-  
8       sumed to exist if any person, directly or indirectly,  
9       owns, controls, or holds with power to vote 10 per-  
10      cent or more of the voting securities of any other  
11      person.

12 **SEC. 108. TYING AND INSIDER LENDING PROVISIONS.**

13       (A) IN GENERAL.—A financial services holding com-  
14      pany shall be treated as a bank holding company, and any  
15      depository institution controlled by such financial services  
16      holding company shall be treated as a bank, for purposes  
17      of section 106 of the Bank Holding Company Act Amend-  
18      ments of 1970 and section 22(h) of the Federal Reserve  
19      Act and any regulation prescribed under any such sec-  
20      tions.

21       (b) ADDITIONAL LIMITATIONS ON TIE-IN ARRANGE-  
22      MENTS.—A financial services holding company and any of  
23      such company’s nonbanking subsidiaries shall be subject  
24      to the same limitations, if any, including any exceptions  
25      thereto, as the Board of Governors of the Federal Reserve

1 System may by regulation impose on bank holding compa-  
2 nies and their nonbanking subsidiaries with respect to ex-  
3 tending credit, leasing or selling property of any kind, pro-  
4 viding any service, or fixing or varying the consideration  
5 for any such transaction subject to any condition or re-  
6 quirement that, if imposed by a bank, would constitute  
7 an unlawful tie-in arrangement under section 106 of the  
8 Bank Holding Company Act Amendments of 1970.

9 (c) REGULATORY AUTHORITY.—For purposes of this  
10 subsection, the appropriate Federal banking agency shall  
11 exercise the authority provided to the Board of Governors  
12 of the Federal Reserve System under section 106 of the  
13 Bank Holding Company Act Amendments of 1970 and  
14 section 22(h) of the Federal Reserve Act.

15 **SEC. 109. REPORTS, EXAMINATION AND ENFORCEMENT.**

16 (a) NOTICE.—

17 (1) TIMING.—Within 90 days after filing the  
18 notice referred to in section 102(a)(1), each financial  
19 services holding company shall file a separate notice  
20 with the appropriate Federal banking agency for the  
21 lead depository institution of such company.

22 (2) FORM AND CONTENT.—The notice required  
23 by paragraph (1) shall be on forms prescribed by the  
24 National Financial Services Committee, and shall in-  
25 clude such information under oath or otherwise, with

1       respect to the financial condition, ownership, oper-  
2       ation and management of such financial services  
3       company and its subsidiaries, and related matters,  
4       as the Committee may deem necessary or appro-  
5       priate for the appropriate Federal banking agency to  
6       ascertain and monitor the impact that such financial  
7       services holding company and its subsidiaries may  
8       have on the safety and soundness of any depository  
9       institution affiliated with such financial services  
10      holding company or to otherwise carry out the pur-  
11      poses of this Act.

12      (b) REPORTS.—

13           (1) IN GENERAL.—The appropriate Federal  
14      banking agency of the lead depository institution of  
15      a financial services holding company from time to  
16      time may require such holding company and any  
17      subsidiary of such company to submit reports under  
18      oath to keep such agency informed as to—

19           (A) the company's or the subsidiary's ac-  
20      tivities, financial condition, policies, systems for  
21      monitoring and controlling financial and oper-  
22      ational risks, to the extent that the appropriate  
23      Federal banking agency has reason to believe  
24      that such activities, financial condition, policies,  
25      and systems may materially affect the safety

1 and soundness of any depository institution  
2 subsidiary of the company;

3 (B) the company's or the subsidiary's  
4 transactions with depository institution subsidi-  
5 aries of the company; and

6 (C) the extent to which the company or  
7 subsidiary has complied with the provisions of  
8 the Act and regulations prescribed and orders  
9 issued under this Act.

10 (2) USE OF EXISTING REPORT.—

11 (A) IN GENERAL.—The appropriate Fed-  
12 eral banking agency described in paragraph (1)  
13 shall, to the fullest extent possible, accept re-  
14 ports in fulfillment of such agency's reporting  
15 requirements under this paragraph that a fi-  
16 nancial services holding company or any sub-  
17 sidiary of such company has been required to  
18 provide to other Federal and State supervisors  
19 or to appropriate self-regulatory organizations.

20 (B) AVAILABILITY.—A financial services  
21 holding company or a subsidiary of such com-  
22 pany shall provide to the appropriate Federal  
23 banking agency described in paragraph (1), at  
24 the request of such agency, a report referred to  
25 in subparagraph (A).

1           (3) The National Financial Services Committee  
2       shall prescribe by regulation uniform standards for  
3       the form and content of the reports required by this  
4       subsection.

5           (4) EXEMPTIONS FROM REPORTING REQUIRE-  
6       MENTS.—

7           (A) IN GENERAL.—The National Financial  
8       Services Committee may, by regulation or  
9       order, exempt any company or class of compa-  
10      nies, under such terms and conditions and for  
11      such periods as the Committee shall provide in  
12      such regulation or order, from the provisions of  
13      this subsection and any regulations prescribed  
14      under this subsection.

15          (B) CRITERIA FOR CONSIDERATION.—In  
16      granting any exemption under subparagraph  
17      (A), the Committee shall consider, among other  
18      factors—

19           (i) whether information of the type re-  
20      quired under this subsection is available  
21      from a supervisory agency (as defined in  
22      section 1101(7) of the Right to Financial  
23      Privacy Act of 1978), the Commodity Fu-  
24      tures Trading Commission, or a foreign  
25      regulatory body of a similar type;

1 (ii) the primary business of the com-  
2 pany;

3 (iii) the nature and extent of domestic  
4 or foreign regulation of the company's ac-  
5 tivities; and

6 (iv) whether the companies' activities  
7 could pose a significant risk to the safety  
8 and soundness of any depository institu-  
9 tion subsidiary of the financial services  
10 holding company.

11 (c) EXAMINATIONS.—

12 (1) IN GENERAL.—For purposes of this Act,  
13 the appropriate Federal banking agency of the lead  
14 depository institution of a financial services holding  
15 company may examine such holding company, but  
16 only to the extent permitted by this subsection.

17 (2) STANDARD FOR EXAMINATIONS.—The ap-  
18 propriate Federal banking agency for the lead depos-  
19 itory institution of a financial services holding com-  
20 pany shall not examine such holding company un-  
21 less—

22 (A) such agency determines, on the basis  
23 of all information available to such agency that  
24 the operations or activities of the financial serv-  
25 ices holding company or any subsidiary of such

1 company, or any transaction involving such  
2 company or subsidiary and an affiliated deposi-  
3 tory institution, may pose a material risk to the  
4 safety and soundness of any depository institu-  
5 tion controlled by such holding company; or

6 (B) such agency is unable to determine  
7 from reports the nature of the operations, fi-  
8 nancial condition, activities, or effectiveness of  
9 the risk management systems of the financial  
10 services holding company or any subsidiary of  
11 such company, or to assess compliance with the  
12 provisions of this Act.

13 (3) RESTRICTED FOCUS OF EXAMINATIONS.—

14 The appropriate Federal banking agency of the lead  
15 depository institution of a financial services holding  
16 company shall limit the focus and scope of any ex-  
17 amination permitted by this subsection to the con-  
18 solidated holding company, provided, however, that  
19 such examination shall not extend to any subsidiary  
20 of such holding company (other than a depository  
21 institution subsidiary).

22 (4) DEFERENCE TO OTHER BANK EXAMINA-  
23 TIONS.—

24 (A) IN GENERAL.—For purposes of this  
25 subsection, the appropriate Federal banking

1 agency of the lead depository institution of the  
2 financial services holding company shall, to the  
3 fullest extent possible, use the report of exami-  
4 nations of other appropriate Federal banking  
5 agencies or the appropriate State depository in-  
6 stitution supervisory authority.

7 (B) APPLICABILITY TO FOREIGN BANKS.—

8 For purposes of this subsection, with respect to  
9 a foreign bank that is a financial services hold-  
10 ing company, the appropriate Federal banking  
11 agency shall give due regard to the primary au-  
12 thority and responsibility of the foreign bank's  
13 home country regulator for supervision and ex-  
14 amination of the bank outside the United  
15 States and shall seek to minimize additional ex-  
16 amination or regulatory burdens on the foreign  
17 bank outside of the United States, by coordinat-  
18 ing with and relying on examinations of and in-  
19 formation from the home country regulator to  
20 the fullest extent possible.

21 (5) USE OF OTHER EXAMINATIONS OF REGU-  
22 LATED SUBSIDIARIES.—In order to conduct an ex-  
23 amination of a consolidation holding company pursu-  
24 ant to this subsection, the appropriate Federal bank-

1       ing agency of the lead depository institution of such  
2       company—

3               (A) shall have access to, and may use, the  
4       reports of examination made of—

5               (i) any registered broker or dealer by  
6       or on behalf of the Securities Exchange  
7       Commission, and

8               (ii) any other subsidiary that such  
9       agency finds to be comprehensively super-  
10      vised under relevant Federal or State law  
11      by a Federal or State agency or authority;  
12      and

13              (B) may request any agency that regulates  
14      a subsidiary described in clause (i) to examine  
15      and provide information concerning any aspect  
16      of such subsidiary's activities that the appro-  
17      priate Federal banking agency deems necessary  
18      or appropriate to carry out the purposes of this  
19      section, and such other agency shall, to the ex-  
20      tent practicable, comply with such request.

21              (6) CONFIDENTIALITY OF REPORTED INFORMA-  
22      TION.—

23              (A) IN GENERAL.—Notwithstanding any  
24      other provision of law, an appropriate Federal  
25      banking agency shall not be compelled to dis-

1 close any information required to be reported  
2 under this subsection, or any information sup-  
3 plied to such agency by any domestic or foreign  
4 regulatory agency, that relates to the financial  
5 services holding company or any subsidiary of  
6 such company.

7 (B) COMPLIANCE WITH REQUESTS FOR IN-  
8 FORMATION.—No provision of this subpara-  
9 graph shall be construed as authorizing an ap-  
10 propriate Federal banking agency to withhold  
11 information from Congress, or preventing such  
12 agency from complying with a request for infor-  
13 mation from any other Federal department or  
14 agency for purposes within the scope of such  
15 department's or agency's jurisdiction, or from  
16 complying with an order of a court of com-  
17 petent jurisdiction in an action brought by the  
18 United States or such agency.

19 (C) COORDINATION WITH OTHER LAW.—  
20 For purposes of section 552 of title 5, United  
21 States Code, this subparagraph shall be consid-  
22 ered to be a statute described in subsection  
23 (b)(3)(B) of such section.

24 (D) DESIGNATION OF CONFIDENTIAL IN-  
25 FORMATION.—In prescribing regulations to

1           carry out the requirements of this subsection,  
2           an appropriate Federal banking agency shall  
3           designate information described in or obtained  
4           pursuant to this paragraph as confidential in-  
5           formation.

6           (E) COSTS.—The cost of any examination  
7           conducted by an appropriate Federal banking  
8           agency under this section may be assessed  
9           against, and made payable by, such holding  
10          company.

11         (d) TERMINATION.— The National Financial Serv-  
12         ices Committee may at any time, upon its own motion or  
13         upon application, terminate the status of a company as  
14         a financial services holding company, if it is determined  
15         that such company no longer controls or operates any de-  
16         pository institutions or otherwise fails to qualify as a fi-  
17         nancial services holding company as defined in this Act.

18         (e) NO EXTENSION OF INSURANCE COVERAGE.—In  
19         no instance shall the benefits of Federal deposit insurance  
20         coverage applicable to an insured depository institution  
21         that is controlled by a financial services holding company  
22         be extended or interpreted to extend to either such finan-  
23         cial services holding company or to any other company  
24         controlled by such financial services holding company that  
25         is not an insured depository institution.

1       (f) ENFORCEMENT OF VIOLATIONS.—Whenever it  
2 appears to the appropriate Federal banking agency of the  
3 lead depository institution of a financial services holding  
4 company that such holding company is violating, has vio-  
5 lated, or is about to violate any provision of this Act or  
6 any regulation prescribed under this Act, such agency  
7 may, in its discretion, apply to the appropriate district  
8 court of the United States or the United States court of  
9 any territory for—

10           (1) a temporary or permanent injunction or re-  
11       straining order enjoining such financial services  
12       holding company from violating this Act or any reg-  
13       ulation prescribed under this Act; or

14           (2) such other equitable relief, including divesti-  
15       ture, as may be necessary to prevent such violation.

16       (g) COURT JURISDICTION.—The district courts of the  
17 United States and the United States court in any territory  
18 shall have jurisdiction and power to issue any injunction  
19 or restraining order or grant any other relief described in  
20 subsection (f). When appropriate, any injunction, order,  
21 or other equitable relief granted under this subparagraph  
22 shall be granted without requiring the posting of any  
23 bond.

24       (h) NOTICE OF VIOLATIONS.—Whenever it appears  
25 to a Federal or State official or agency with supervisory

1 or examination authority over any affiliate of a financial  
2 services holding company that such affiliate or such finan-  
3 cial services holding company is violating, has violated, or  
4 is about to violate any provision of this Act or any regula-  
5 tion prescribed under this Act, such official or agency shall  
6 promptly notify the appropriate Federal banking agency  
7 of the lead depository institution of such holding company  
8 in order that such banking agency, in consultation with  
9 the notifying agency, may determine whether action under  
10 this section is appropriate.

11 **SEC. 110. DIVESTITURE.**

12 (a) IN GENERAL.—In addition to all of its other reg-  
13 ulatory and supervisory powers, if the appropriate Federal  
14 banking agency determines that a depository institution  
15 under its supervision has engaged in a continuing course  
16 of conduct involving its financial services holding company  
17 or any affiliate of such holding company which has had,  
18 or has a significant probability of having, the effect of  
19 causing such depository institution to be in an unsafe or  
20 unsound condition, it may make an initial finding that the  
21 financial services holding company should be required to  
22 terminate its control or operation of the depository institu-  
23 tion. If the appropriate Federal banking agency makes  
24 such an initial finding, it shall within 3 days so notify the  
25 financial services holding company controlling or operating

1 the depository institution and the National Financial Serv-  
2 ices Committee. Such notice shall provide a statement for  
3 the basis of the appropriate Federal banking agency's ac-  
4 tion.

5 (b) HEARING PROCEDURES.—Not later than 30 days  
6 after receipt of the notice described in subsection (a), the  
7 financial services holding company receiving such notice  
8 may request an agency hearing before the appropriate  
9 Federal banking agency. In such hearing, all issues shall  
10 be determined pursuant to section 554 of title 5, United  
11 States Code. The length of the hearing shall be determined  
12 by the appropriate Federal banking agency, and such  
13 hearing may be before a hearing examiner appointed by  
14 such agency. At the conclusion thereof, the appropriate  
15 Federal banking agency shall issue a final order, on the  
16 basis of the record made at such hearing, affirming or re-  
17 versing the initial finding of the appropriate Federal bank-  
18 ing agency. A company that fails to request an agency  
19 hearing under this paragraph shall be deemed to have con-  
20 sented to the issuance of a final order affirming the initial  
21 finding without the necessity of the hearing provided for  
22 in this paragraph.

23 (c) TERMINATION OF CONTROL.—If such final order  
24 affirms the initial finding, the financial services holding  
25 company shall, upon completion of the judicial review, if

1 any, of the appropriate Federal banking agency's final  
2 order as provided for in section 113, terminate its control  
3 or operation of the depository institution involved within  
4 1 year or such longer period as the appropriate Federal  
5 banking deems necessary and appropriate to protect the  
6 safety and soundness of the depository institution or pre-  
7 vent financial disruption.

8 **SEC. 111. CRIMINAL PENALTIES.**

9 (a) WILLFUL VIOLATIONS.—Any company or insured  
10 depository institution which knowingly and willfully par-  
11 ticipates in a material violation of any provision of this  
12 Act, or any rule, regulation, or order issued by an appro-  
13 priate Federal banking agency pursuant thereto, shall,  
14 upon conviction, be fined for each violation not more than  
15 the greater of \$250,000 or an amount equal to one one  
16 hundredth of 1 percent of the minimum required capital  
17 of the lead depository institution of the financial services  
18 holding company for each day during which the violation  
19 continues, except that in no case shall any such amount  
20 for any violation or related series of violations exceed 1  
21 percent of the minimum required capital of the lead depos-  
22 itory institution.

23 (b) ENFORCEMENT AGAINST INDIVIDUALS.—Any  
24 natural person who knowingly and willfully participates in  
25 a material violation of any provision of this Act or any

1 rule, regulation, or order issued pursuant thereto, shall  
 2 upon conviction be imprisoned not more than 5 years and  
 3 fined for each violation not more than the greater of  
 4 \$250,000 or double the individual's annual compensation  
 5 at the time the violation occurred.

6 (c) ENFORCEABILITY AGAINST OFFICERS AND EM-  
 7 PLOYEES.—Every officer, director, employee, and agent of  
 8 a financial services holding company or depository institu-  
 9 tion also shall be subject to the same penalties for false  
 10 entries in any book, report, or statement of such company  
 11 or depository institution as are applicable to officers, di-  
 12 rectors, employees, and agents of member banks for false  
 13 entries in any books, reports, or statements of member  
 14 banks under section 1005 of title 18, United States Code.

15 (d) ENFORCEABILITY AGAINST HOLDING COMPA-  
 16 NIES.—A financial services holding company and its affili-  
 17 ates shall be subject to the provisions of title 18, United  
 18 States Code, to the same extent as a registered bank hold-  
 19 ing company or any affiliate of such a company.

20 **SEC. 112. CIVIL ENFORCEMENT, CEASE-AND-DESIST OR-**  
 21 **DERS, CIVIL MONEY PENALTIES, REMOVAL,**  
 22 **AND PROHIBITION AUTHORITY.**

23 Subsections (b) through (s) and subsection (u) of sec-  
 24 tion 8 of the Federal Deposit Insurance Act shall apply  
 25 to any financial services holding company in the same

1 manner as they apply to an insured depository institution.  
2 Nothing in subsection (b) or (c) of that section 8 shall  
3 authorize any Federal banking agency, other than the ap-  
4 propriate Federal banking agency, to issue a notice of  
5 charges or cease-and-desist order against a financial serv-  
6 ices holding company.

7 **SEC. 113. JUDICIAL REVIEW.**

8       Any party aggrieved by an appropriate Federal bank-  
9 ing agency's findings or other actions under this Act may  
10 obtain review by the United States court of appeals of the  
11 circuit wherein such party has its principal place of busi-  
12 ness or the United States Court of Appeals for the District  
13 of Columbia Circuit, by filing a Notice of Appeal in such  
14 court within 30 days from the date of such action, and  
15 simultaneously sending a copy of such notice by registered  
16 or certified mail to the appropriate Federal banking agen-  
17 cy. The appropriate Federal banking agency shall prompt-  
18 ly certify and file in such court the record upon which  
19 such action or finding was based. The actions or findings  
20 of the appropriate Federal banking agency shall be set  
21 aside if not supported by substantial evidence or if found  
22 to violate procedures established by this Act. An initial  
23 finding by the appropriate Federal banking agency under  
24 section 110 shall be subject to judicial review only in the  
25 context of review of a final order under section 110(b).

1 **SEC. 114. NATIONAL FINANCIAL SERVICES COMMITTEE.**

2 (a) ESTABLISHMENT.—There is established a Na-  
3 tional Financial Services Committee which shall consist  
4 of—

5 (1) the Secretary of the Treasury;

6 (2) the Chairman of the Board of Governors of  
7 the Federal Reserve System;

8 (3) the Chairman of the Board of Directors of  
9 the Federal Deposit Insurance Corporation;

10 (4) the Comptroller of the Currency; and

11 (5) the Chairman of the Securities and Ex-  
12 change Commission.

13 (b) MEMBER AGENCIES.—For purposes of this Act,  
14 the agencies or departments headed by members of the  
15 committee shall be referred to as “member agencies”.

16 (c) CHAIR.—The Chair of the Committee shall be the  
17 Secretary of the Treasury.

18 (d) COMPENSATION.—Each member of the Commit-  
19 tee shall serve without additional compensation, but shall  
20 be entitled to reasonable expenses incurred in carrying out  
21 the official duties as such a member.

22 (e) PUBLIC MEETINGS.—The Committee shall hold  
23 public meetings at least annually. All meetings of the  
24 Committee shall be conducted in conformity with the pro-  
25 visions of section 3(a) of the Government in the Sunshine  
26 Act (5 U.S.C. 552b). The Committee may not take any

1 action unless such action is approved by a majority vote  
2 of the members of the Committee.

3 (f) SECRETARIAT.—The Department of the Treasury  
4 shall provide the Secretariat for the Committee and shall  
5 assume any expenses arising from execution of the respon-  
6 sibilities of the Committee, except for expenses incurred  
7 by employees of any Member of the Committee.

8 (g) ACCESS TO RECORDS.—For the purpose of carry-  
9 ing out this section, the Committee shall have access to  
10 all books, accounts, records, reports, files, memoranda, pa-  
11 pers, things, and property belonging to or in use by any  
12 appropriate Federal banking agency.

13 (h) FUNCTIONS OF THE COMMITTEE.—

14 (1) UNIFORM PRINCIPLES AND STANDARDS.—

15 The Committee shall, insofar as is practicable, es-  
16 tablish uniform principles and standards applicable  
17 to the notices, reports, examinations and supervision  
18 of financial services institutions regulated by the  
19 member agencies, and to the extent permitted by  
20 this Act, financial services holding companies, which  
21 principles and standards shall be applied by the  
22 member agencies.

23 (2) RECOMMENDATIONS.—The Committee shall  
24 make recommendations for uniformity in other su-  
25 pervisory matters, such as, but not limited to, identi-

1       fying financial services institutions and other provid-  
2       ers of financial services in need of special super-  
3       visory attention, the adequacy of supervisory tools  
4       for determining the impact of affiliate operations on  
5       insured depository institutions, and the ability of the  
6       member agencies to discover possible fraud or ques-  
7       tionable practices.

8           (3) RECOMMENDATIONS TO CONGRESS.—The  
9       Committee shall, from time to time, recommend to  
10      the Congress additional measures to strengthen the  
11      separation between insured depository institutions  
12      controlled by depository institutions holding compa-  
13      nies from the activities of any of their affiliates, in-  
14      cluding the imposition of additional restrictions on  
15      interaffiliate transactions and the strict application  
16      of Federal deposit insurance coverage only for the  
17      benefit of depositors of insured depository institu-  
18      tions.

19      (i) CONSULTATION WITH STATE REGULATORS.—The  
20      Committee shall consult with the appropriate organiza-  
21      tions representing the State regulators of banks, savings  
22      and loan associations, savings banks, securities firms, in-  
23      surance companies, and other providers of financial serv-  
24      ices, and as deemed appropriate, meet with such State reg-  
25      ulators. The Committee, when appropriate, shall invite to

1 each public meeting of the Committee representatives of  
2 such organizations.

3 (j) STUDIES AND RECOMMENDATIONS.—The Com-  
4 mittee may conduct or authorize studies to carry out the  
5 purposes of this Act. On the basis of such studies, the  
6 Committee may make recommendations to the Congress  
7 and member agencies concerning the implementation of  
8 this Act and changes in statutes and regulations necessary  
9 to promote the strength and stability of the Nation's fi-  
10 nancial system and financial institutions, the competitive-  
11 ness of providers of financial services in domestic and  
12 international markets, and the purposes of this Act. Not  
13 later than 1 year after the date of the enactment of this  
14 Act, the Committee shall report to the Congress on pro-  
15 posals for legislative or regulatory actions that will im-  
16 prove the examination process to permit better oversight  
17 of all insured depository institutions. In particular, the  
18 Committee shall consider whether the number of, or com-  
19 pensation for, examiners employed by the appropriate  
20 Federal regulatory agencies should be increased.

21 (k) NOTICE PROCEDURES FOR DETERMINING NEW  
22 FINANCIAL SERVICES INSTITUTIONS AND NEW FINAN-  
23 CIAL ACTIVITIES.—

1           (1) NOTICE REQUIREMENT.—A financial serv-  
2           ices holding company may request the Committee to  
3           determine that—

4                   (A) an activity not described in section  
5           102(n) (1)–(12) constitutes a financial activity  
6           pursuant to section 102(n)(13); or

7                   (B) a company not described in section  
8           102(m) (1)–(8) is a financial services institu-  
9           tion pursuant to section 102(m)(9),  
10          by providing the Committee with written notice de-  
11          scribing the proposed activity or institution.

12          (2) CONTENTS OF NOTICE.—The notice submit-  
13          ted to the Committee shall contain such information  
14          as the Committee shall prescribe by regulation or by  
15          specific request in connection with a particular no-  
16          tice.

17          (3) PROCEDURE FOR COMMITTEE ACTION.—

18                  (a) NOTICE OF DISAPPROVAL.—Any notice  
19                  filed under this subsection shall be deemed to  
20                  be approved by the Committee unless before the  
21                  end of the 60-day period beginning on the date  
22                  the Committee receives a complete notice under  
23                  subparagraph (1), the Committee issues an  
24                  order determining the activity does not con-  
25                  stitute a financial activity or the institution is

1 not a financial services institution and setting  
2 forth the reasons for disapproval.

3 (B) EXTENSION OF PERIOD.—The Com-  
4 mittee may extend the 60-day period referred to  
5 in subparagraph (A) for an additional 30 days.  
6 The Committee may further extend the period  
7 with the agreement of the financial services  
8 holding company submitting the notice pursu-  
9 ant to this subsection.

10 (4) SHORTER PERIODS.—The Committee may  
11 prescribe regulations which provide for a shorter no-  
12 tice period than the periods described in subpara-  
13 graphs (A) and (B).

14 (5) INCOMPLETE INFORMATION.—The Commit-  
15 tee may determine that an activity or an institution  
16 for which notice has been submitted pursuant to this  
17 subsection, does not constitute a financial activity or  
18 is not a financial services institution, if the financial  
19 services holding company submitting such notice ne-  
20 glects, fails, or refuses to furnish the Committee all  
21 the information required by the Committee.

1   **Subtitle B—Securities Activities of Financial**  
2                   **Services Holding Companies**

3   **SEC. 121. LIMITATION ON SECURITIES ACTIVITIES OF DE-**  
4                   **POSITORY INSTITUTIONS AFFILIATED WITH**  
5                   **SECURITIES AFFILIATES.**

6           (a) IN GENERAL.—A financial services holding com-  
7   pany that is affiliated with a securities affiliate shall not  
8   permit any depository institution, or any subsidiary of any  
9   depository institution, which is controlled by such holding  
10   company to engage, directly or indirectly in the United  
11   States—

12           (1) in underwriting securities backed by or rep-  
13   resenting interests in notes, drafts, acceptances,  
14   loans, leases, receivables, other obligations, or pools  
15   of any such obligations originated or purchased by  
16   the institution or its affiliates; or

17           (2) in underwriting or dealing in any other se-  
18   curities,

19   except securities expressly authorized by section 5136 of  
20   the Revised Statutes of the United States as permissible  
21   for a national bank to underwrite or deal in.

22           (b) RULE OF CONSTRUCTION.—No provision of this  
23   section shall be construed as permitting a securities affli-  
24   ate to accept deposits in contravention of section 21 of  
25   the Banking Act of 1933.

1 (c) DEFINITION OF SECURITY.—

2 (1) IN GENERAL.—For purposes of this section,  
3 the term “security” has the meaning given to such  
4 term in section 3(a)(10) of the Securities Exchange  
5 Act of 1934.

6 (2) EXCEPTIONS.—Notwithstanding any other  
7 provision of law, the term “security” does not in-  
8 clude any of the following for purposes of this sec-  
9 tion:

10 (A) A contract of insurance.

11 (B) A deposit account, savings account,  
12 certificate of deposit, or other deposit instru-  
13 ment issued by a depository institution.

14 (C) A share account issued by a savings  
15 association if the account is insured by the Fed-  
16 eral Deposit Insurance Corporation.

17 (D) A banker’s acceptance.

18 (E) A letter of credit issued by a deposi-  
19 tory institution.

20 (F) A debit account at a depository insti-  
21 tution arising from a credit card or similar ar-  
22 rangement.

23 (G) A loan or loan participation (as deter-  
24 mined by the appropriate Federal banking  
25 agency), including any debt security issued in

1 connection with sovereign debt restructuring  
2 which a bank purchases and sells pursuant to  
3 such bank's lending authority.

4 (H) A qualified financial contract (as de-  
5 fined in section 11(e)(8)(d)(i) of the Federal  
6 Deposit Insurance Act), as determined by the  
7 appropriate Federal Banking agency, after con-  
8 sultation with and consideration of the views of  
9 the Securities and Exchange Commission, ex-  
10 cept that, for purposes of this section such term  
11 does not include—

12 (i) any securities contract (as defined  
13 in section 11(e)(8)(D)(ii) of such Act) that  
14 is based on or directly relates to a security  
15 that is not expressly authorized by section  
16 5136 of the Revised Statutes of the United  
17 States as permissible for a national bank  
18 to underwrite or deal in unless the appro-  
19 priate Federal banking agency determines,  
20 after consultation with and consideration  
21 of the views of the Securities and Ex-  
22 change Commission, that such securities  
23 contract is appropriate for a bank to un-  
24 derwrite or deal in, taking into account  
25 other qualified financial contracts which a

1 bank is permitted to underwrite or deal in;  
2 and

3 (ii) any agreement, contract, or trans-  
4 action which is determined by the Federal  
5 Deposit Insurance Corporation in a regula-  
6 tion prescribed after the date of the enact-  
7 ment of this Act to be a qualified financial  
8 contract unless the appropriate Federal  
9 banking agency determines, after consulta-  
10 tion with and consideration of the views of  
11 the Securities and Exchange Commission,  
12 that such agreement, contract, or trans-  
13 action shall be treated as a qualified finan-  
14 cial contract for purposes of this section.

15 (3) AUTHORITY TO EXEMPT BANKING PROD-  
16 UCTS.—Notwithstanding any other provision of law,  
17 the appropriate Federal banking agency may, by  
18 regulation or order, exempt a banking product from  
19 the definition of security if the appropriate Federal  
20 banking agency finds that—

21 (i) the product is available in the  
22 course of a banking business and is more  
23 appropriately regulated as a banking prod-  
24 uct; and

1 (ii) the exemption is otherwise consist-  
2 ent with the purposes of this section, the  
3 maintenance of fair and orderly markets,  
4 and the protection of investors.

5 (4) DEFINITION FOR LIMITED PURPOSE.—The  
6 fact that a particular instrument is excluded pursu-  
7 ant to paragraph (2) or (3) from the definition of  
8 security for purposes of this section shall not be con-  
9 strued as finding or implying that such instrument  
10 is or is not a security for purposes of—

11 (A) Federal securities law;

12 (B) section 5136 of the Revised Statutes  
13 of the United States; or

14 (C) sections 20, 21, or 32 of the Banking  
15 Act of 1933 (12 U.S.C. 377, 378, and 78).

16 (5) RESERVATION OF AUTHORITY TO CHARTER-  
17 ING AUTHORITY.—A determination by the appro-  
18 priate Federal banking agency under this subsection  
19 shall not be construed in any way as authorizing a  
20 bank to provide any product or service that the bank  
21 is not otherwise authorized to provide under relevant  
22 law governing the activities and powers of the bank.

23 (6) CONSULTATION WITH COMMISSION.—

24 (A) NOTICE AND CONSULTATION RE-  
25 QUIRED.—In determining whether to exempt a

1 banking product pursuant to paragraph (3), the  
2 appropriate Federal banking agency shall pro-  
3 vide written notice to, consult with, and con-  
4 sider the views of the Securities and Exchange  
5 Commission.

6 (B) RESPONSE AND PUBLICATION.—If the  
7 Securities and Exchange Commission comments  
8 in writing on a proposed determination of the  
9 appropriate Federal banking agency, such agen-  
10 cy shall—

11 (i) respond in writing to such written  
12 comment; and

13 (ii) at the request of such Commis-  
14 sion, publish such comment and response  
15 in the Federal Register at the time the de-  
16 termination becomes effective.

17 (7) APPROVAL OF NATIONAL FINANCIAL SERV-  
18 ICES COMMITTEE.—

19 (A) IN GENERAL.—An appropriate Federal  
20 banking agency may not issue a regulation or  
21 order pursuant to paragraph (3) without the  
22 approval of the National Financial Services  
23 Committee.

24 (B) UNIFORM STANDARDS.—Any regula-  
25 tion or order subject to the approval of the Na-

1            tional Financial Services Committee under  
2            paragraph (1) shall be identical for each appro-  
3            priate Federal banking agency, except as other-  
4            wise permitted by such Committee.

5    **SEC. 122. SAFEGUARDS RELATING TO SECURITIES AFFILI-**  
6            **ATES.**

7            (a) EXTENSIONS OF CREDIT AND ASSET PURCHASES  
8    RESTRICTED.—

9            (1) IN GENERAL.—No depository institution af-  
10          filiated with a securities affiliate shall, directly or in-  
11          directly, do any of the following:

12                  (A) Extend credit in any manner to the se-  
13          curities affiliate.

14                  (B) Issue a guarantee, acceptance, or let-  
15          ter of credit, including an endorsement or a  
16          standby letter of credit, for the benefit of the  
17          securities affiliate.

18                  (C) Except as provided in paragraph (3),  
19          purchase for its own account, or for the account  
20          of any subsidiary of such institution, financial  
21          assets of the securities affiliate.

22            (2) EXCEPTION FOR CLEARING SECURITIES.—  
23          Paragraph (1)(A) shall not apply with respect to an  
24          extension of credit by a well capitalized depository

1 institution to acquire or sell securities if the follow-  
2 ing conditions are met:

3 (A) The extension of credit is incidental to  
4 clearing transactions in those securities through  
5 the depository institution.

6 (B) Both the principal of and the interest  
7 on the extension of credit are fully secured by  
8 those securities.

9 (C) Either—

10 (i) the extension of credit is to be re-  
11 paid before the close of business on the  
12 same business day; or

13 (ii) all of the following conditions are  
14 satisfied:

15 (I) The securities cannot, in the  
16 ordinary course of business, be cleared  
17 on that business day.

18 (II) The extension of credit is to  
19 be repaid before the close of business  
20 on the next business day.

21 (III) Extensions of credit subject  
22 to this clause, when aggregated with  
23 all other covered transactions between  
24 the institution and all affiliated secu-  
25 rities affiliates do not exceed 10 per-

1 cent of the institution's capital stock  
2 and surplus.

3 (D) Either—

4 (i) the securities are securities ex-  
5 pressly authorized by section 5136 of the  
6 Revised Statutes of the United States as  
7 permissible for a national bank to under-  
8 write or deal in; or

9 (ii) the appropriate Federal banking  
10 agency for the depository institution per-  
11 mits transactions under this paragraph in  
12 securities not described in clause (i) and  
13 the securities affiliate provides the deposi-  
14 tory institution with such additional secu-  
15 rity or other assurance of performance, if  
16 any, as such agency shall require to pre-  
17 vent such transactions from posing any ap-  
18 preciable risk to the institution.

19 (3) EXCEPTIONS FOR CERTAIN SECURITIES  
20 PURCHASED FOR A DEPOSITORY INSTITUTION'S OWN  
21 ACCOUNT.—Paragraph (1)(C) shall not apply with  
22 respect to purchases at the current market value  
23 (based on reliable and regularly available price  
24 quotations, including those readily available on elec-  
25 tronic quotation systems) of—

1 (A) securities expressly authorized by sec-  
2 tion 5136 of the Revised Statutes of the United  
3 States as permissible for a national bank to un-  
4 derwrite or deal in; or

5 (B) securities that—

6 (i) the securities affiliate has been  
7 marking to market daily; and

8 (ii) are rated investment grade by at  
9 least one nationally recognized statistically  
10 rating organization.

11 (4) OTHER EXCEPTIONS.—The appropriate  
12 Federal banking agency may make exceptions to  
13 paragraph (1) for well capitalized depository institu-  
14 tions it regulates if—

15 (A) the transaction is fully secured in ac-  
16 cordance with section 23A(c) of the Federal Re-  
17 serve Act; and

18 (B) the aggregate amount of covered  
19 transactions between the institution and all se-  
20 curities affiliates of the financial services hold-  
21 ing company, excluding transactions permitted  
22 under paragraph (2)(C)(i) or (3)(A), does not  
23 exceed 10 percent of the institution's capital  
24 stock and surplus.

25 (b) CREDIT ENHANCEMENT RESTRICTED.—

1           (1) IN GENERAL.—No depository institution af-  
2           filiated with a securities affiliate shall, directly or in-  
3           directly, extend credit, or issue or enter into a stand-  
4           by letter of credit, asset purchase agreement, indem-  
5           nity, guarantee, insurance, or other facility, for the  
6           purpose of enhancing the marketability of a securi-  
7           ties issue underwritten by the securities affiliate.

8           (2) DEFINITION OF TERM BY BOARD.—The ap-  
9           propriate Federal banking agency shall prescribe a  
10          definition for the term “for the purpose of enhanc-  
11          ing the marketability of a securities issue” for pur-  
12          pose of paragraph (1).

13          (3) EXCEPTION FOR BANK ELIGIBLE SECURI-  
14          TIES.—Paragraph (1) shall not apply with regard to  
15          securities expressly authorized by section 5136 of  
16          the Revised Statutes of the United States as permis-  
17          sible for a national bank to underwrite or deal in.

18          (4) APPLICATION TO WELL CAPITALIZED DE-  
19          POSITORY INSTITUTIONS.—

20                 (A) IN GENERAL.—A well capitalized de-  
21                 pository institution may engage in a transaction  
22                 described in paragraph (1) if—

23                         (i) the depository institution has  
24                         adopted appropriate limits on exposure on  
25                         a consolidated basis to any single customer

1           whose securities are underwritten by the  
2           securities affiliate; and

3           (ii) the institution and its securities  
4           affiliate have adopted appropriate proce-  
5           dures, including maintenance of necessary  
6           documentary records, to assure that any  
7           such extension of credit, standby letter of  
8           credit, asset purchase agreement indem-  
9           nity, guarantee, insurance or other facility,  
10          is on arm's length basis.

11          (B) ARM'S LENGTH TRANSACTION DE-  
12          SCRIBED.—An extension of credit may be con-  
13          sidered to be on arm's length basis if the terms  
14          and conditions are substantially the same as  
15          those prevailing at the time for comparable  
16          transactions involving securities that are not  
17          underwritten by the securities affiliate.

18          (C) COMPLIANCE WITH PARAGRAPH (1).—  
19          The appropriate Federal banking agency may  
20          require, by regulation or order, compliance with  
21          paragraph (1) by well capitalized depository in-  
22          stitutions exempt under this paragraph in order  
23          to achieve any purpose specified in subsection  
24          (k).

1       (c) PROHIBITION OF FINANCING PURCHASE OF SE-  
2       curity BEING UNDERWRITTEN.—

3           (1) IN GENERAL.—No financial services holding  
4       company or subsidiary of a financial services holding  
5       company (other than a securities affiliate) shall  
6       knowingly extend or arrange for the extension of  
7       credit, directly or indirectly, secured by or for the  
8       purpose of purchasing any security while, or for 30  
9       days after, that security is the subject of a distribu-  
10      tion in which a securities affiliate of that financial  
11      services holding company participates as an under-  
12      writer or a member of a selling group.

13          (2) RELIANCE ON ACKNOWLEDGEMENT.—For  
14      purposes of paragraph (1), a financial services hold-  
15      ing company or subsidiary may rely on an express  
16      written acknowledgement signed by the borrower  
17      that the credit is not secured by or for the purpose  
18      of purchasing a security described in this subpara-  
19      graph.

20          (3) APPLICATION TO BANK ELIGIBLE SECURI-  
21      TIES.—Paragraph (1) shall not apply with regard to  
22      extensions of credit if the securities are securities ex-  
23      pressly authorized by section 5136 of the Revised  
24      Statutes of the United States as permissible for a  
25      national bank to underwrite or deal in.

1           (4) APPLICATION TO WELL CAPITALIZED DE-  
2       POSITORY INSTITUTIONS.—The appropriate Federal  
3       banking agency may make exceptions, by regulation  
4       or order, to paragraph (1) for an extension of credit,  
5       after consultation with and considering the views of  
6       the Securities and Exchange Commission.

7           (5) CONSISTENCY WITH THE FEDERAL SECURI-  
8       TIES LAWS.—No provision of this subsection shall be  
9       construed as permitting a securities affiliate to ex-  
10      tend or maintain credit, or arrange for an extension  
11      of credit, except in compliance with applicable provi-  
12      sions of the Securities Exchange Act of 1934 and  
13      the regulations prescribed and interpretations issued  
14      under such Act.

15      (d) RESTRICTION ON EXTENDING CREDIT TO MAKE  
16      PAYMENTS ON SECURITIES.—

17           (1) IN GENERAL.—No depository institution af-  
18      filiated with a securities affiliate shall, directly or in-  
19      directly, extend credit to an issuer of securities un-  
20      derwritten by such securities affiliate for the purpose  
21      of paying the principal of those securities or interest  
22      or dividends on those securities.

23           (2) EXCEPTIONS FOR CERTAIN EXTENSIONS OF  
24      CREDIT.—Paragraph (1) shall not apply to an exten-  
25      sion of credit for a documented purpose (other than

1       paying principal, interest, or dividends) if the tim-  
2       ing, maturity, and other terms of the credit, taken  
3       as a whole, are substantially different from those of  
4       the underwritten securities.

5               (3) EXCEPTIONS FOR BANK ELIGIBLE SECURI-  
6       TIES.—Paragraph (1) shall not apply with respect to  
7       any security expressly authorized by section 5136 of  
8       the Revised Statutes of the United States as permis-  
9       sible for a national bank to underwrite or deal in.

10              (4) APPLICATION TO WELL CAPITALIZED DE-  
11       POSITORY INSTITUTIONS.—

12              (A) IN GENERAL.—Paragraph (1) shall not  
13       apply with respect to well capitalized depository  
14       institutions if—

15              (i) the depository institution has  
16       adopted appropriate limits on exposure on  
17       a consolidated basis to any single customer  
18       whose securities are underwritten by the  
19       securities affiliate; and

20              (ii) the depository institution has  
21       adopted appropriate procedures, including  
22       maintenance of necessary documentary  
23       records, to assure that any extension of  
24       credit by the depository institution to an  
25       issuer for the purpose of paying the prin-

1                    cipal, interest or dividends on securities  
2                    underwritten by the securities affiliate is  
3                    on an arm's length basis.

4                    (B) ARM'S LENGTH TRANSACTION DE-  
5                    SCRIBED.—An extension of credit may be con-  
6                    sidered to have been made on an arm's length  
7                    basis if the terms and conditions are substan-  
8                    tially the same as those prevailing at the time  
9                    for comparable transactions with issuers whose  
10                   securities are not underwritten by the securities  
11                   affiliate.

12                   (C) COMPLIANCE WITH SUBPARAGRAPH  
13                   (A).—The appropriate Federal banking agency  
14                   may require by regulation or order, compliance  
15                   with paragraph (1) by well capitalized deposi-  
16                   tory institutions exempt under this paragraph  
17                   in order to achieve any purpose specified in  
18                   subsection (k).

19                   (e) COMMON DIRECTORS AND SENIOR EXECUTIVE  
20                   OFFICERS.—

21                   (1) IN GENERAL.—The appropriate Federal  
22                   banking agency shall, by regulation or order, pre-  
23                   scribe the circumstances under which directors and  
24                   senior executive officers of a securities affiliate may

1 serve at the same time as directors or senior execu-  
2 tive officers of any affiliated depository institutions.

3 (2) STANDARDS.—The appropriate Federal  
4 banking agency, in issuing any regulation or order  
5 pursuant to paragraph (1), shall consider appro-  
6 priate factors including—

7 (A) any burdens imposed by restrictions on  
8 director and senior executive officer interlocks;

9 (B) the safety and soundness of depository  
10 institutions and securities affiliates;

11 (C) unfair competition in securities activi-  
12 ties;

13 (D) improper exchange of customer infor-  
14 mation; or

15 (E) harm to customers of securities affili-  
16 ates or depository institutions that could rea-  
17 sonably result from director and senior officer  
18 interlocks.

19 (3) EXCEPTION FOR SMALL FINANCIAL SERV-  
20 ICES HOLDING COMPANIES.—

21 (A) IN GENERAL.—Notwithstanding para-  
22 graph (1), a director or senior executive officer  
23 of a securities affiliate may serve at the same  
24 time as a director or senior executive officer of  
25 an affiliated depository institution if that insti-

1           tution and all affiliated depository institutions  
2           have, in the aggregate, total assets of not more  
3           than \$500,000,000.

4                   (B) INFLATION ADJUSTMENT.—The dollar  
5           limitation contained in subparagraph (A) shall  
6           be adjusted annually after December 31, 1995,  
7           by the annual percentage increase in the  
8           Consumer Price Index for Urban Wage Earners  
9           and Clerical Workers published by the Bureau  
10          of Labor Statistics.

11           (4) EXCEPTION FOR CERTAIN FOREIGN AFFILI-  
12          ATES.—Paragraph (1) shall not prohibit a director  
13          or senior executive officer of a securities affiliate  
14          from serving at the same time as a director or senior  
15          executive officer of an entity which—

16                   (A) is organized under section 25 or 25A  
17          of the Federal Reserve Act;

18                   (B) is an affiliate of such securities affili-  
19          ate; and

20                   (C) principally engages in business outside  
21          the United States.

22          (f) DISCLOSURE REQUIRED BY SECURITIES AFFILI-  
23          ATE.—

24                   (1) IN GENERAL.—Pursuant to rules adopted  
25          by the Securities and Exchange Commission in con-

1 sultation with the appropriate Federal banking agen-  
2 cies, a securities affiliate shall conspicuously disclose  
3 in writing to each of its customers at the time a se-  
4 curities account is opened, or within a reasonable  
5 time thereafter if it is not practicable to provide  
6 such notice at that time, that—

7 (A) securities sold, offered, or rec-  
8 ommended by the securities affiliate—

9 (i) are not deposits;

10 (ii) are not insured by the Federal  
11 Deposit Insurance Corporation;

12 (iii) are not guaranteed by an affili-  
13 ated insured depository institution;

14 (iv) are not otherwise an obligation of  
15 an insured depository institution (unless  
16 such is the case); and

17 (v) with regard to any product that  
18 includes any investment component, are  
19 subject to investment risks including pos-  
20 sible loss of principal invested;

21 (B) the securities affiliate is not an in-  
22 sured depository institution, and is a corpora-  
23 tion separate from any insured depository insti-  
24 tution; and

1 (C) the securities affiliate may be under-  
2 writing or dealing in the securities being sold,  
3 offered or recommended, and if so, would have  
4 a financial interest in the transaction.

5 (2) FORM OF DISCLOSURE.—The disclosures re-  
6 quired by paragraph (1) shall be made in clear and  
7 concise language that—

8 (A) is readily comprehensible to customers  
9 of the securities affiliate; and

10 (B) is designed to promote customer un-  
11 derstanding that uninsured investment products  
12 are not deposits insured by the Federal Deposit  
13 Insurance Corporation.

14 (3) DISCLOSURE AUTHORITY.—Subject to para-  
15 graph (2), the Securities and Exchange Commission,  
16 after consultation with the appropriate Federal  
17 banking agencies may, in its discretion, prescribe  
18 disclosures in addition to the disclosures prescribed  
19 by paragraph (1).

20 (g) DISCLOSURE REQUIRED BY DEPOSITORY INSTI-  
21 TUTIONS.—

22 (1) IN GENERAL.—Pursuant to rules adopted  
23 jointly by the appropriate Federal banking agencies  
24 in consultation with the Securities and Exchange  
25 Commission, no insured depository institution shall

1 knowingly express any opinion on the value of, or  
2 the advisability of purchasing or selling, nonbanking  
3 products (as defined by the appropriate Federal  
4 banking agency) sold by the insured depository insti-  
5 tution or any affiliate of an insured depository insti-  
6 tution unless the insured depository institution con-  
7 spicuously discloses in writing to the customer  
8 that—

9 (A) the insured depository institution or  
10 affiliate (whichever is applicable) is selling the  
11 nonbanking product and has a financial interest  
12 in the transaction (if such is the case);

13 (B) the nonbanking products—

14 (i) are not deposits;

15 (ii) are not insured by the Federal  
16 Deposit Insurance Corporation;

17 (iii) are not guaranteed by the institu-  
18 tion or any other affiliated insured deposi-  
19 tory institution;

20 (iv) are not otherwise an obligation of  
21 an insured depository institution (unless  
22 such is the case); and

23 (v) with regard to any nonbanking  
24 product that includes any investment com-  
25 ponent, are subject to investment risks in-

1 cluding possible loss of principal invested;  
2 and

3 (C) an affiliate, if involved, is not an in-  
4 sured depository institution (unless such is the  
5 case), and is a corporation separate from any  
6 insured depository institution (unless such is  
7 not the case).

8 (2) FORM OF DISCLOSURE.—The disclosures re-  
9 quired by paragraph (1) shall be made in clear and  
10 concise language that—

11 (A) is readily comprehensible to customers  
12 of the insured depository institution, and

13 (B) is designed to promote customer un-  
14 derstanding that nonbanking products are not  
15 deposits insured by the Federal Deposit Insur-  
16 ance Corporation.

17 (3) CUSTOMER ACKNOWLEDGMENT OF DISCLO-  
18 SURE.—

19 (A) IN GENERAL.—Whenever any insured  
20 depository institution or securities affiliate  
21 opens an account for the purpose of selling a  
22 nondeposit investment product or products to a  
23 customer, such insured depository institution or  
24 securities affiliate, as the case may be, shall ob-  
25 tain a one-time acknowledgment of receipt by

1 the customer of such disclosures, including the  
2 date of receipt with the customer's name, ad-  
3 dress, and the account number.

4 (B) ONE-TIME ACKNOWLEDGMENT.—The  
5 one-time written acknowledgment required by  
6 subparagraph (A) and obtained with respect to  
7 one account from a customer shall satisfy the  
8 requirement with respect to all other investment  
9 accounts opened by that customer at that de-  
10 pository institution or securities affiliate.

11 (C) TIMING OF ACKNOWLEDGMENT.—The  
12 one-time acknowledgment required by subpara-  
13 graph (A) must be obtained within a reasonable  
14 time after the account is opened.

15 (D) SPECIAL RULE FOR ACCREDITED IN-  
16 VESTORS.—This paragraph shall not apply to  
17 any customer who is, or meets the requirements  
18 for, an accredited investor (as defined in section  
19 2(15) of the Securities Act of 1933).

20 (4) DISCLOSURE AUTHORITY.—Subject to para-  
21 graph (2), the appropriate Federal banking agencies  
22 may jointly prescribe, after consultation with the Se-  
23 curities and Exchange Commission, disclosures in  
24 addition to the disclosures required by paragraph  
25 (1).

1       (h) UNDERWRITING SECURITIES REPRESENTING OB-  
2       LIGATIONS ORIGINATED BY AFFILIATE RESTRICTED.—A  
3       securities affiliate shall not underwrite securities secured  
4       by or representing an interest in mortgages or other obli-  
5       gations originated or purchased by an affiliated depository  
6       institution or subsidiary of such an institution—

7               (1) unless those securities—

8                       (A) are rated by at least one unaffiliated,  
9                       nationally recognized statistical rating organiza-  
10                      tion;

11                     (B) are issued or guaranteed by the Fed-  
12                     eral Home Loan Mortgage Corporation, the  
13                     Federal National Mortgage Association, or the  
14                     Government National Mortgage Association; or

15                     (C) represent interests in securities de-  
16                     scribed in subparagraph (B); or

17               (2) except as permitted by the appropriate Fed-  
18       eral banking agency.

19       (i) RECIPROCAL ARRANGEMENTS PROHIBITED.—No  
20       financial services holding company and no subsidiary of  
21       a financial services holding company may enter into any  
22       agreement, understanding, or other arrangement under  
23       which—

24               (1) One financial services holding company (or  
25       subsidiary of that financial services holding com-

1       pany) agrees to engage in a transaction with, or on  
2       behalf of, another financial services holding company  
3       (or subsidiary of that financial services holding com-  
4       pany), in exchange for

5           (2) the agreement of the second financial serv-  
6       ices holding company referred to in paragraph (1)  
7       (or a subsidiary of that financial services holding  
8       company) to engage in any transaction with, or on  
9       behalf of, the first financial services holding com-  
10      pany referred to in such paragraph (or any subsidi-  
11      ary of that financial services holding company), for  
12      the purpose of evading any requirement or restric-  
13      tion of Federal law on transactions between, or for  
14      the benefit of, affiliates of financial services holding  
15      companies.

16      (j) SAFEGUARDS APPLY TO CERTAIN SUBSIDI-  
17      ARIES.—Except as provided in this section—

18           (1) SECURITIES AFFILIATE.—No subsidiary of  
19      a securities affiliate may do anything that this sec-  
20      tion prohibits the securities affiliate from doing.

21           (2) DEPOSITORY INSTITUTION.—No subsidiary  
22      of a depository institution may do anything that this  
23      subsection prohibits the depository institution from  
24      doing.

1       (k) AUTHORITY TO MODIFY AND IMPOSE ADDI-  
2       TIONAL SAFEGUARDS; INTERPRETIVE AUTHORITY.—

3               (1) IN GENERAL.—The appropriate Federal  
4       banking agency may, by regulation or order—

5               (A) adopt additional limitations, restric-  
6       tions or conditions on relationships or trans-  
7       actions among depository institutions, their af-  
8       filiates, and their customers; and

9               (B) make any modification to any limita-  
10       tion, restriction, or condition imposed under  
11       this section on relationships or transactions  
12       among depository institutions, the affiliates of  
13       depository institutions, and the customers of  
14       such institutions or affiliates, including modi-  
15       fications in addition to those expressly provided  
16       for in this section.

17              (2) STANDARDS.—The appropriate Federal  
18       banking agency may not exercise authority under  
19       paragraph (1) unless such agency finds that such  
20       action is consistent with the purposes of this act, in-  
21       cluding—

22              (A) the avoidance of any significant risk to  
23       the safety and soundness of depository institu-  
24       tions or the Federal deposit insurance funds;

1 (B) the enhancement of the financial sta-  
2 bility of financial services holding companies;

3 (C) the prevention of the subsidization of  
4 securities affiliates by depository institutions;

5 (D) the avoidance of conflicts of interest or  
6 other abuses; and

7 (E) the application of the principle of na-  
8 tional treatment and equality of competitive op-  
9 portunity between securities affiliates owned or  
10 controlled by domestic financial services holding  
11 companies and securities affiliates owned or  
12 controlled by foreign banks operating in the  
13 United States.

14 (3) BIENNIAL REVIEW.—Beginning 2 years  
15 after the effective date of the Depository Institution  
16 Affiliation Act, the appropriate Federal banking  
17 agency shall, on a biennial basis—

18 (A) review all restrictions established pur-  
19 suant to paragraph (1) to determine whether  
20 any such restrictions are required any longer to  
21 carry out the purposes of this Act; and

22 (B) modify or eliminate any such restric-  
23 tion that such agency determines is no longer  
24 required to carry out the purposes of this Act.

25 (I) COMPLIANCE PROGRAMS REQUIRED.—

1           (1) IN GENERAL.—Each appropriate Federal  
2       banking agency and the Securities and Exchange  
3       Commission shall establish a program for—

4           (A) sharing information, including reports  
5       of examinations, concerning compliance with  
6       this section or the amendments made by title  
7       III of the Depository Institution Affiliation and  
8       Thrift Charter Conversion Act, by—

9           (i) brokers, dealers, investment advis-  
10       ers, or investment companies that are reg-  
11       istered with the Securities and Exchange  
12       Commission and that are affiliated with  
13       depository institutions, or are separately  
14       identifiable departments or divisions of de-  
15       pository institutions registered as invest-  
16       ment advisers; and

17          (ii) depository institutions and their  
18       affiliates;

19          (B) enforcing compliance with this section  
20       and the amendments made by this subtitle and  
21       paragraphs (4) and (5) of section 3(a) of the  
22       Securities Exchange Act of 1934 by entities  
23       under its supervision; and

1 (C) responding to any complaints from  
2 customers about inappropriate cross-marketing  
3 of securities products or inadequate disclosure.

4 (2) DATA COLLECTION.—

5 (A) IN GENERAL.—The appropriate Fed-  
6 eral banking agencies, after consultation with  
7 and consideration of the views of the Securities  
8 and Exchange Commission, shall (except as oth-  
9 erwise provided by the appropriate Federal  
10 banking agency after such consultation) require  
11 any depository institution that has effected se-  
12 curities transactions pursuant to any exception  
13 enumerated in paragraphs (4)(C) and (5)(D) of  
14 section 3(a) of the Securities Exchange Act of  
15 1934 to identify the exceptions relied upon and  
16 to submit such information necessary to mon-  
17 itor compliance under such paragraphs.

18 (B) COMMISSION ACCESS.—The appro-  
19 priate Federal banking agency shall make any  
20 information referred to in subparagraph (A)  
21 available to the Securities and Exchange Com-  
22 mission, upon the request of the Commission.

23 (C) COMPLIANCE.—In implementing the  
24 provisions of this paragraph, the appropriate  
25 Federal banking agencies shall ensure that any

1 information requests to depository institutions  
2 take into account the size and activities of the  
3 institutions and do not cause undue reporting  
4 burdens.

5 (3) COMMISSION'S ENFORCEMENT AUTHOR-  
6 ITY.—Without limiting in any way the authority of  
7 the appropriate Federal banking agencies under this  
8 section, the Securities and Exchange Commission  
9 shall have the authority to enforce provision of this  
10 section against a securities affiliate as if such provi-  
11 sion were a provision of the Securities Exchange Act  
12 of 1934 to the extent that the provision applies with  
13 respect to the conduct or activities of the securities  
14 affiliate.

15 (4) EXAMINATION REPORTS.—

16 (A) IN GENERAL.—The appropriate Fed-  
17 eral banking agencies shall, to the fullest extent  
18 possible, use the reports of examination of any  
19 broker, dealer, investment adviser, or invest-  
20 ment company made by or on behalf of the Se-  
21 curities and Exchange Commission and reports  
22 made by or on behalf of a registered securities  
23 association or national securities exchange, and  
24 shall defer to such examinations for compliance  
25 with the Federal securities laws.

1 (B) COMPLIANCE WITH SECTION 122 SAFE-  
2 GUARDS.—The appropriate Federal banking  
3 agencies shall—

4 (i) to the fullest extent possible, use  
5 the reports of examination of any securi-  
6 ties affiliate made by the appropriate Fed-  
7 eral banking agency for such affiliate; and

8 (ii) defer to such examinations for  
9 compliance with the provisions of this sec-  
10 tion.

11 (5) INTERPRETATIONS OF THE FEDERAL SECU-  
12 RITIES LAWS.—The appropriate Federal banking  
13 agencies shall defer to the Securities and Exchange  
14 Commission regarding all interpretations and en-  
15 forcement of the Federal securities laws relating to  
16 the application of the Federal securities laws to the  
17 activities and conduct of brokers, dealers, investment  
18 advisers, and investment companies.

19 (6) NOTICE OF CERTAIN ACTIONS BY SEC.—  
20 The Securities and Exchange Commission shall give  
21 notice to the appropriate Federal banking agency  
22 upon the commencement of any disciplinary or law  
23 enforcement proceedings by the Commission and a  
24 copy of any order entered by the Commission  
25 against—

1 (A) any broker, dealer, or investment ad-  
2 viser that—

3 (i) is registered with the Securities  
4 and Exchange Commission; and

5 (ii) is affiliated with, or is a sepa-  
6 rately identifiable department or division  
7 of, a depository institution;

8 (B) any investment company registered  
9 with the Securities and Exchange Commission  
10 that is an affiliate of or is advised by an invest-  
11 ment adviser affiliated with a depository institu-  
12 tion or by a separately identifiable department  
13 or division of a depository institution that is a  
14 registered investment adviser; or

15 (C) any financial services holding company,  
16 depository institution, or subsidiary of such  
17 company or institution, if the proposed action  
18 relates to this section or the amendments made  
19 by title III of the Depository Institution Affili-  
20 ation and Thrift Charter Conversion Act.

21 (7) NOTICE OF CERTAIN ACTIONS BY APPRO-  
22 PRIATE FEDERAL BANKING AGENCIES.—Upon the  
23 commencement of any disciplinary or law enforce-  
24 ment proceedings to enforce the provisions of this  
25 section by an appropriate Federal banking agency

1 against any broker, dealer, investment adviser, or in-  
2 vestment company that is registered under the Fed-  
3 eral securities laws and is affiliated with a deposi-  
4 tory institution or is a separately identifiable depart-  
5 ment or division of a depository institution, the ap-  
6 propriate Federal banking agency shall give notice to  
7 the Securities and Exchange Commission of the pro-  
8 posed action.

9 (8) IMMEDIATE ACTION ALLOWED BEFORE NO-  
10 TICE.—The notice required under paragraph (6) or  
11 (7) may be provided promptly after action by the Se-  
12 curities and Exchange Commission or the appro-  
13 priate Federal banking agency, if—

14 (A) the Commission determines that the  
15 protection of investors requires immediate ac-  
16 tion by the Commission and prior notice under  
17 paragraph (6) is not practical under the cir-  
18 cumstances; or

19 (B) the appropriate Federal banking agen-  
20 cy determines that concerns for the safety and  
21 soundness of a depository institution or its affil-  
22 iate require immediate action by the agency and  
23 prior notice under (7) is not practical under the  
24 circumstances.

1           (9) COORDINATED ENFORCEMENT ACTION.—

2           The Securities and Exchange Commission and the  
3           appropriate Federal banking agencies shall, to the  
4           extent practicable, coordinate supervisory actions  
5           based on applicable law where the actions are based  
6           on the same or related events or practices.

7           (10) INVESTMENT COMPANIES NOT AFFILIATED  
8           WITH A DEPOSITORY INSTITUTION.—The appro-  
9           priate Federal banking agency shall not have au-  
10          thority under this section or any other provision of  
11          law to inspect or examine any investment company  
12          registered under the Federal securities laws that is  
13          not—

14                 (A) affiliated with a depository institution;  
15                 or

16                 (B) advised by an investment adviser affili-  
17                 ated with a depository institution or by a sepa-  
18                 rately identifiable department or division of a  
19                 depository institution that is a registered invest-  
20                 ment adviser.

21          (11) DEFINITION.—For purposes of this sub-  
22          section, the term “Federal securities laws” means  
23          the provisions of Federal law governing securities ac-  
24          tivities that are within the jurisdiction of the Securi-  
25          ties and Exchange Commission under the Securities

1 Act of 1933, the Securities Exchange Act of 1934,  
2 the Investment Company Act of 1940, the Invest-  
3 ment Advisers Act of 1940, and the Trust Indenture  
4 Act of 1939.

5 (m) FOREIGN BANK FIREWALLS.—

6 (1) IN GENERAL.—A branch, agency, or com-  
7 mercial lending company that is operated by a for-  
8 eign bank that is a financial services holding com-  
9 pany shall not be subject to the restrictions of any  
10 subsection of this section, other than subsections (k)  
11 and (l), if—

12 (A) such branch, agency, or commercial  
13 lending company accepts no deposits in the  
14 United States that are insured under the Fed-  
15 eral Deposit Insurance Act;

16 (B) such foreign bank meets risk-based  
17 capital standards comparable to the capital  
18 standards required for a wholesale financial in-  
19 stitution, giving due regard to the principle of  
20 national treatment and equality of competitive  
21 opportunity; and

22 (C) the home country of such foreign bank  
23 satisfies the national treatment standard de-  
24 scribed in Section 102(l)(3).

1           (2) APPLICABILITY OF SUBSECTION (K) TO FOR-  
2 EIGN BANKS.—Any limitation, restriction, condition,  
3 or modification adopted under subsection (k) may be  
4 applied by the appropriate Federal banking agency  
5 to—

6           (A) a foreign bank that operates a branch,  
7 agency, or commercial lending company de-  
8 scribed in paragraph (1) (and any company  
9 that owns or controls such foreign bank);

10          (B) any branch, agency or commercial  
11 lending company operated by such foreign bank  
12 in the United States; or

13          (C) any other affiliate of such foreign bank  
14 in the United States; if such limitation, restric-  
15 tion, condition, or modification is applied by  
16 regulation or order of general applicability  
17 under subsection (n)(1) to wholesale financial  
18 institutions and their securities affiliates, sub-  
19 ject to such modifications, conditions, or exemp-  
20 tions as the appropriate Federal banking agen-  
21 cy of such wholesale financial institution deems  
22 appropriate, giving due regard to the principle  
23 of national treatment and equality of competi-  
24 tive opportunity.

1       (n) FIREWALLS APPLICABLE TO WHOLESALE FI-  
2       NANCIAL INSTITUTIONS AND NATIONAL MARKET LEND-  
3       ING INSTITUTIONS.—

4               (1) IN GENERAL.—A wholesale financial institu-  
5       tion, and transactions between a wholesale financial  
6       institution and its securities affiliate, shall not be  
7       subject to the provisions of this section, except that  
8       a wholesale financial institution and its securities af-  
9       filiate shall be subject to subsections (k) and (l) in  
10      the same manner and to the same extent such sub-  
11      sections would apply if the wholesale financial insti-  
12      tution were an insured depository institution.

13              (2) PROHIBITION ON EVASION OF FIREWALLS  
14      BY AFFILIATED INSURED DEPOSITORY INSTITU-  
15      TIONS.—An insured depository institution that is af-  
16      filiated with a wholesale financial institution shall  
17      not evade any requirement or restriction imposed by  
18      this section by engaging in transactions or arrange-  
19      ments with its affiliated wholesale financial institu-  
20      tion.

21              (3) SIMILAR TREATMENT FOR NATIONAL MAR-  
22      KET LENDING INSTITUTIONS.—A national market  
23      lending institution, as defined in section 5158 of the  
24      Revised Statutes of the United States, that is con-  
25      trolled by a financial services holding company shall

1 be subject to this section in the same manner and  
2 to the same extent as a wholesale financial institu-  
3 tion.

4 (o) AUTHORITY OF NATIONAL FINANCIAL SERVICES  
5 COMMITTEE.—

6 (1) IN GENERAL.—Except for rules issued pur-  
7 suant to subsections (f) or (g), no rule, regulation,  
8 or order authorized or required by this section shall  
9 be issued without the approval of the National Fi-  
10 nancial Services Committee.

11 (2) UNIFORM STANDARDS.—Any regulation,  
12 rule, or order subject to the approval of the National  
13 Financial Services Committee under paragraph (1)  
14 shall be identical for each appropriate Federal bank-  
15 ing agency, except as otherwise permitted by such  
16 Committee, taking into account existing require-  
17 ments, coordination of new requirements, minimiza-  
18 tion of duplicative regulation, the degree of uniform-  
19 ity between regulation of securities affiliates or in-  
20 vestment companies affiliated with or advised by de-  
21 pository institutions or their affiliates and other  
22 broker dealers or investment companies, and an  
23 analysis of any of the benefits to be obtained by any  
24 unique regulatory burdens placed on securities affli-

1       ates or investment companies affiliated with or ad-  
2       vised by depository institutions or their affiliates.

3   **SEC. 123. JOINT STANDARDS RELATING TO RETAIL SALES**  
4                   **OF CERTAIN NONDEPOSIT INVESTMENT**  
5                   **PRODUCTS.**

6       (a) IN GENERAL.—The National Financial Services  
7   Committee shall prescribe standards applicable to any de-  
8   pository institution which—

9           (1) is not registered as a broker under the Se-  
10   curities Exchange Act of 1934;

11          (2) effects retail transactions in securities, in-  
12   cluding securities issued by an investment company  
13   or annuities; and

14          (3) is affiliated with a financial services holding  
15   company.

16       (b) SCOPE OF STANDARDS.—The standards required  
17   under paragraph (1) with respect to retail sales of securi-  
18   ties and annuities referred to in such paragraph shall, at  
19   a minimum, establish requirements with respect to—

20          (1) sales practices;

21          (2) disclosures and advertising in connection  
22   with transactions in such securities and annuities,  
23   including—

24               (A) the content, form, and timing of any  
25   such disclosure; and

1 (B) disclaimers concerning the noninsured  
2 status of the security or annuity;

3 (3) the compensation of sales personnel with re-  
4 spect to referrals or transactions;

5 (4) the training of and qualifications for per-  
6 sonnel involved in such transactions, including train-  
7 ing in making an accurate judgment about the suit-  
8 ability of a particular investment product for a pro-  
9 spective customer; and

10 (5) the setting in which and the circumstances  
11 under which transactions may be effected, and refer-  
12 rals made, by sales personnel with respect to such  
13 securities and annuities.

14 (c) COMPARABILITY REQUIREMENT.—The standards  
15 required under paragraph (1) shall be comparable to the  
16 standards applicable to brokers and dealers registered  
17 under the Securities Exchange Act of 1934 unless the Na-  
18 tional Financial Services Committee determines that im-  
19 plementation of comparable standards is not necessary or  
20 appropriate for the maintenance of fair and orderly mar-  
21 kets or the protection of investors or is not in the public  
22 interest.

1 **Subtitle C—Insurance and Real Estate Devel-**  
 2 **opment Activities of Financial Services**  
 3 **Holding Companies**

4 **SEC. 131. LIMITATION ON INSURANCE UNDERWRITING AND**  
 5 **REAL ESTATE DEVELOPMENT ACTIVITIES OF**  
 6 **DEPOSITORY INSTITUTIONS.**

7 (a) IN GENERAL.—No depository institution that is  
 8 an affiliate of a financial services holding company shall  
 9 directly engage in—

10 (1) insurance underwriting (other than credit-  
 11 related insurance underwriting); or

12 (2) real estate investment or development, ex-  
 13 cept to the extent that such activities are performed  
 14 in relation to the premises of the depository institu-  
 15 tion or in connection with securing or collecting a  
 16 debt previously contracted in good faith, or would be  
 17 authorized for a national bank under section 5137  
 18 of the Revised Statutes of the United States or the  
 19 first section of the Act of September 28, 1962 (12  
 20 U.S.C. 92a).

21 (b) CONSTRUCTION.—Nothing contained in this sec-  
 22 tion shall be construed to prohibit or impede—

23 (1) a financial services holding company or any  
 24 affiliate of a financial services holding company

1 other than a depository institution from engaging in  
2 any of the activities set forth in paragraph (1); or  
3 (2) any employee of a depository institution  
4 that is an affiliate of a financial services holding  
5 company from promoting or advertising products or  
6 services of an affiliate of such insured depository in-  
7 stitution that engages in any of such activities.

8 **SEC. 132. ACQUISITION OF PREEXISTING INSURANCE AGEN-**  
9 **CY BY BANK HOLDING COMPANIES.**

10 (a) IN GENERAL.— No bank holding company which  
11 becomes a financial services holding company and no fi-  
12 nancial services holding company which did not at any  
13 time prior to becoming such a holding company, directly  
14 or indirectly, engage in insurance agency activities other  
15 than activities generally permissible for bank holding com-  
16 panies under section 4(c)(8) of the Bank Holding Com-  
17 pany Act of 1956, shall commence any insurance agency  
18 activities not generally permissible for bank holding com-  
19 panies under section 4(c)(8) of the Bank Holding Com-  
20 pany Act of 1956, unless such activities are conducted  
21 through an existing insurance agency acquired directly or  
22 indirectly by such financial services holding company or  
23 through any successor to such insurance agency, and un-  
24 less such acquired insurance agency shall have been ac-

1 tively engaged in such insurance activities during the 2-  
 2 year period preceding the date of such acquisition.

3 **SEC. 133. EXISTING CONTRACTS.**

4 Nothing in sections 131 or 132 shall require the  
 5 breach of any contract entered into before the date of en-  
 6 actment of this Act.

7 **TITLE II—CONFORMING AMENDMENTS TO**  
 8 **OTHER LAWS FOR FINANCIAL SERV-**  
 9 **ICES HOLDING COMPANIES**

10 **SEC. 201. EXEMPTION OF FINANCIAL SERVICES HOLDING**  
 11 **COMPANIES FROM THE BANK HOLDING COM-**  
 12 **PANY ACT OF 1956.**

13 Section 2(c)(2) of the Bank Holding Company Act  
 14 of 1956 (12 U.S.C. 1841(c)(2)) is amended by adding at  
 15 the end the following new subparagraphs:

16 “(K) An insured bank, as defined in sec-  
 17 tion 3 of the Federal Deposit Insurance Act,  
 18 that is controlled by a financial services holding  
 19 company, as defined in section 102(a) of the  
 20 Financial Services Holding Company Act.

21 “(L) A wholesale financial institution, as  
 22 defined in section 102(i) of the Financial Serv-  
 23 ices Holding Company Act, that is controlled by  
 24 a financial services holding company, as defined  
 25 in section 102(a) of such Act.”.

1 **SEC. 202. AMENDMENT TO THE FEDERAL RESERVE ACT.**

2       Section 23B(b)(1)(B) of the Federal Reserve Act (12  
3 U.S.C. 371c–1(b)(1)(B)) is amended by inserting “and for  
4 30 days thereafter” after “during the existence of any un-  
5 derwriting or selling syndicate”.

6 **SEC. 203. AMENDMENTS TO THE BANKING ACT OF 1933.**

7       (a) SECTION 20.—Section 20 of the Banking Act of  
8 1933 (12 U.S.C. 377) is amended by inserting after the  
9 first undesignated paragraph the following: “The provi-  
10 sions of this section shall not apply to a financial services  
11 holding company or any of its affiliates, as such terms  
12 are defined in section 102 of the Financial Services Hold-  
13 ing Company Act.”

14       (b) SECTION 32.—Section 32 of the Banking Act of  
15 1933 (12 U.S.C. 78) is amended by adding at the end  
16 the following: “This section shall not apply so as to pro-  
17 hibit an officer, director, or employee of a securities affili-  
18 ate (as defined in section 102(r) of the Financial Services  
19 Holding Company Act) from serving at the same time as  
20 an officer, director, or employee of a member bank affili-  
21 ated with the securities affiliate pursuant to such Act.  
22 This section shall not apply so as to prohibit an officer,  
23 director, or employee of an investment company registered  
24 under the Investment Company Act of 1940 or an invest-  
25 ment adviser registered under the Investment Advisers  
26 Act of 1940 from serving at the same time as an officer,

1 director, or employee of a member bank that is affiliated  
2 with a financial services holding company (as defined in  
3 section 102(a) of the Financial Services Holding Company  
4 Act).”.

5 **SEC. 204. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
6 **ANCE ACT.**

7 (a) SECTION 7.—Section 7(j) of the Federal Deposit  
8 Insurance Act (12 U.S.C. 1817(j))) is amended—

9 (1) in paragraph (8), by striking subparagraph  
10 (B) and inserting the following:

11 “(B) the term ‘control’ means the power,  
12 directly or indirectly, to direct the management  
13 or policies of a company, or to vote 25 percent  
14 or more of any class of voting securities of a  
15 company, except that no company shall be  
16 deemed to control or to have acquired control of  
17 any other company by virtue of its ownership of  
18 the voting securities of such other company—

19 “(i) acquired or held in an agency,  
20 trust, or other fiduciary capacity;

21 “(ii) acquired or held in connection  
22 with or incidental to—

23 “(I) the underwriting of securi-  
24 ties if such securities are held only for

1           such person of time as will permit the  
2           sale thereof on a reasonable basis; or  
3           “(II) market making, dealing,  
4           trading, brokerage, or other securities-  
5           related activities and not with a view  
6           to acquiring, exercising, or transfer-  
7           ring any control over the management  
8           or policies of such company; or

9           “(iii) acquired in securing or collect-  
10          ing a debt previously contracted in good  
11          faith, until 2 years after the date of acqui-  
12          sition, except that no company formed for  
13          the sole purpose of participating in a proxy  
14          solicitation is in control of a company by  
15          virtue of its acquisition of voting rights  
16          with respect to shares of such company ac-  
17          quired in the course of such solicitation.”;  
18          and

19          (2) by adding at the end the following new  
20          paragraph:

21                 “(19) DEFINITION.—For purposes of this sub-  
22          section, the term ‘insured depository institution’  
23          shall include—

24                         “(A) any ‘bank holding company’, as that  
25          term is defined in section 2 of the Bank Hold-

ing Company Act of 1956, which has control of any insured bank (as defined in that section 2), and the appropriate Federal banking agency in the case of a bank holding company shall be the Board of Governors of the Federal Reserve System; and

“(B) any ‘financial services holding company’, as that term is defined in section 102(a) of the Financial Services Holding Company Act, which has control of any such insured bank, and the appropriate Federal banking agency in the case of a financial services holding company shall be the appropriate Federal banking agency of the lead depository institution (as defined in section 102(h) of the Financial Services Holding Company Act) of the financial services holding company.

(b) SECTION 18.—Section 18(j)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(1)(A)) is amended by striking “Sections” and inserting “Subject to section 104(a)(2) of the Financial Services Holding Company Act, sections”.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—

(1) STATE MEMBER WHOLESALE FINANCIAL INSTITUTIONS.—Section 3(g)(2)(A) of the Federal De-

1       posit Insurance Act (12 U.S.C. 1813 (q)(2)(A)) is  
2       amended to read as follows:

3               “(A) any State member insured bank (ex-  
4               cept a District bank) and State member whole-  
5               sale financial institution as authorized pursuant  
6               to section 9B of the Federal Reserve Act.”.

7               (2) NATIONAL WHOLESALE FINANCIAL INSTI-  
8       TUTION.—Section 3(g)(1) of the Federal Deposit In-  
9       surance Act (12 U.S.C. 1813(q)(1)) is amended by  
10      inserting “(including any national wholesale finan-  
11      cial institution and any national market funded lend-  
12      ing institution, as authorized pursuant to sections  
13      5136B and 5158 of the Revised Statutes of the  
14      United States)”.

15      (d) SECURITIES COMPANY AFFILIATIONS OF FDIC-  
16      INSURED BANKS.—Section 18 of the Federal Deposit In-  
17      surance Act (12 U.S.C. 1828) is amended by adding at  
18      the end thereof the following new subsection:

19              “(s) SECURITIES AFFILIATIONS OF BANKS.—

20              “(1) IN GENERAL.—A bank shall not be an af-  
21      filiate of any company that, directly or indirectly,  
22      acts as an underwriter or dealer of any security,  
23      other than—

24              “(A) a bank;

1 “(B) a securities affiliate as defined in sec-  
2 tion 102(r) of the Financial Services Holding  
3 Company Act; or

4 “(C) a company that underwrites or deals  
5 only in securities that are described in section  
6 121 of the Depository Institution Affiliation  
7 and Thrift Charter Conversion Act.

8 “(2) EXCEPTIONS.—

9 “(A) CERTAIN BANKS NOT INCLUDED.—  
10 For purposes of this subsection, the term ‘bank’  
11 does not include—

12 “(i) an insured bank described in sub-  
13 paragraph (D), (F), or (H) of section  
14 2(c)(2) of the Bank Holding Company Act  
15 of 1956; and

16 “(ii) a Federal branch or an insured  
17 branch (as defined in section 3 of the Fed-  
18 eral Deposit Insurance Act).

19 “(B) AFFILIATIONS WITH EDGE ACT AND  
20 AGREEMENT CORPORATIONS.—Paragraph (1)  
21 shall not apply with respect to the affiliation of  
22 a bank with a company held pursuant to section  
23 25 or 25A of the Federal Reserve Act or section  
24 4(c)(13) of the Bank Holding Company Act of  
25 1956.

1           “(3) GRANDFATHER PROVISION.—This sub-  
2       section shall not apply with respect to—

3           “(A) an affiliation between a bank and a  
4       company that underwrites or deals in securities,  
5       provided that—

6           “(i) the affiliation is authorized pur-  
7       suant to an order issued by the Board of  
8       Governors of the Federal Reserved System  
9       under section 4(c)(8) of the Bank Holding  
10      Company Act of 1956; and

11          “(ii) such company complies with the  
12      limitations, restrictions, and conditions, in-  
13      cluding the limitation on the revenue that  
14      may be derived from underwriting or deal-  
15      ing activities, that were generally applica-  
16      ble to companies that, as of January 1,  
17      1996, were subject to orders described in  
18      clause (i);

19          “(B) any other lawful affiliation that ex-  
20      isted on January 1, 1996; or

21          “(C) any new affiliation by an insured that  
22      has an affiliation that would be prohibited if the  
23      affiliation were not covered by subparagraph  
24      (B).

1           “(4) DEFINITIONS.—For purposes of this sub-  
2       section, the following definitions shall apply:

3           “(A) DEALER.—The term ‘dealer’ has the  
4       meaning given to such term in section 3(a)(5)  
5       of the Securities Exchange Act of 1934.

6           “(B) SECURITY.—The term ‘security’ has  
7       the meaning given to such term in section  
8       121(c) of the Financial Services Holding Com-  
9       pany Act.

10          “(C) UNDERWRITER.—The term ‘under-  
11       writer’ has the meaning given to such term in  
12       section 2(11) of the Securities Act of 1933.”.

13 **SEC. 205. AMENDMENT TO THE COMMUNITY REINVEST-**  
14 **MENT ACT.**

15       Section 803(3) of the Community Reinvestment Act  
16 of 1977 (12 U.S.C. 2902(3)) is amended—

17           (1) by inserting “or notice, as appropriate”  
18       after “an application”;

19           (2) in subparagraph (E), by striking “or” at  
20       the end;

21           (3) in subparagraph (F), by striking the period  
22       at the end and inserting “; or”; and

23           (4) by adding at the end the following new sub-  
24       paragraph:

1           “(G) the acquisition of an insured deposi-  
2           tory institution requiring prior notice under sec-  
3           tion 103 of the Financial Services Holding  
4           Company Act.”.

5   **SEC. 206. AMENDMENT TO THE FEDERAL POWER ACT.**

6           Section 305(b) of the Federal Power Act shall not  
7   apply to any person now holding, or proposing to hold,  
8   at the same time the position of officer or director of a  
9   public utility and the position of officer or director of a  
10  bank, trust company, banking association, or firm per-  
11  mitted by the Financial Services Holding Company Act  
12  to underwrite or participate in the marketing of securities  
13  of the public utility for which the person serves, or pro-  
14  poses to serve, as an officer or director.

15   **SEC. 207. AMENDMENT TO THE RIGHT TO FINANCIAL PRI-**  
16                   **ACY ACT.**

17           Section 1112(e) of the Right to Financial Privacy Act  
18  (12 U.S.C. 3412(e)) is amended as follows—

- 19           (1) by striking “this title” and inserting “law”;  
20           and  
21           (2) by inserting “, examination reports,” after  
22           “financial records”.

1 **SEC. 208. AMENDMENTS TO THE INTERNATIONAL BANKING**  
2 **ACT.**

3 (a) EXEMPTION FROM PROVISIONS OF BANK HOLD-  
4 ING COMPANY ACT FOR FOREIGN BANKS QUALIFYING AS  
5 FINANCIAL SERVICES HOLDING COMPANIES.—Section  
6 8(a) of the International Banking Act (12 U.S.C.  
7 32016(a)) is amended by adding at the end by striking  
8 “provisions.” and inserting the following: “provisions, ex-  
9 cept that any such foreign bank or company that qualifies  
10 and elects to be treated as a financial services holding  
11 company under the Financial Services Holding Company  
12 Act, and any affiliate of such financial services holding  
13 company, shall not be so subject to the provisions of the  
14 Bank Holding Company Act of 1956.”.

15 (b) AUTHORITY TO TERMINATE GRANDFATHER  
16 RIGHTS.—Section 8(c) of the International Banking Act  
17 of 1978 (12 U.S.C. 3106(c)) is amended by adding at the  
18 end the following new paragraph:

19 “(3) PARITY IN CONDUCT OF AUTHORIZED SE-  
20 CURITIES ACTIVITIES.—

21 “(A) IN GENERAL.—Notwithstanding the  
22 provisions of paragraph (1) or any other provi-  
23 sion of law, any authority conferred under this  
24 subsection on any foreign bank or company  
25 with respect to securities activities authorized  
26 for bank holding companies in the United

1 States shall terminate 30 days after such for-  
2 eign bank or company becomes a financial serv-  
3 ices holding company under the Financial Serv-  
4 ices Holding Company Act.”.

5 **TITLE III—FUNCTIONAL REGULATION**  
6 **AMENDMENTS TO SECURITIES LAWS**  
7 **FOR FINANCIAL SERVICES HOLDING**  
8 **COMPANIES**

9 **Subtitle A—Broker Dealer Provisions**

10 **SEC. 301. DEFINITION OF BROKER.**

11 Section 3(a)(4) of the Securities Exchange Act of  
12 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

13 “(4) BROKER.—

14 “(A) IN GENERAL.—The term ‘broker’  
15 means any person engaged in the business of  
16 effecting transactions in securities for the ac-  
17 count of others.

18 “(B) EXCLUSION OF BANKS.—The term  
19 ‘broker’ does not include a bank unless such  
20 bank is affiliated with a financial services hold-  
21 ing company, as defined in section 102(a) of  
22 the Financial Services Holding Company Act  
23 and—

1 “(i) publicly solicits the business of  
2 effecting securities transactions for the ac-  
3 count of others; or

4 “(ii) is compensated for such business  
5 by the payment of commissions or similar  
6 remuneration based on effecting trans-  
7 actions in securities (other than fees cal-  
8 culated as a percentage of assets under  
9 management) in excess of the bank’s incre-  
10 mental costs directly attributable to  
11 effecting such transactions (hereafter re-  
12 ferred to as ‘incentive compensation’).

13 “(C) EXEMPTION FOR CERTAIN BANK AC-  
14 TIVITIES.—A bank shall not be considered to be  
15 a broker because the bank engages in any of  
16 the following activities under the conditions de-  
17 scribed:

18 “(i) THIRD PARTY BROKERAGE AR-  
19 RANGEMENTS.—The bank enters into a  
20 contractual or other arrangement with a  
21 broker or dealer registered under this title  
22 under which the broker or dealer offers  
23 brokerage services on or off the premises  
24 of the bank if—

1           “(I) such broker or dealer is  
2 clearly identified as the person per-  
3 forming the brokerage services;

4           “(II) the broker or dealer per-  
5 forms brokerage services in an area  
6 that is clearly marked, and unless  
7 made impossible by space or personnel  
8 considerations, physically separate  
9 from the routine deposit-taking activi-  
10 ties of the bank;

11           “(III) any materials used by the  
12 bank to advertise or promote generally  
13 the availability of brokerage services  
14 under the contractual or other ar-  
15 rangement clearly indicate that the  
16 brokerage services are being provided  
17 by the broker or dealer and not by the  
18 bank;

19           “(IV) any materials used by the  
20 bank to advertise or promote generally  
21 the availability of brokerage services  
22 under the contractual or other ar-  
23 rangement are in compliance with the  
24 Federal securities laws before dis-  
25 tribution;

1           “(V) bank employees perform  
2           only clerical or ministerial functions in  
3           connection with brokerage actions, in-  
4           cluding scheduling appointments with  
5           the associated persons of a broker or  
6           dealer, and on behalf of a broker or  
7           dealer, transmitting orders or han-  
8           dling customers’ funds or securities,  
9           except that bank employees who are  
10          not so qualified may describe in gen-  
11          eral terms investment vehicles under  
12          the contractual or other arrangement  
13          and accept customers’ orders on be-  
14          half of the broker or dealer if such  
15          employees have received training that  
16          is substantially equivalent to the  
17          training required for personnel quali-  
18          fied to sell securities pursuant to the  
19          requirements of a self-regulatory orga-  
20          nization (as defined in section 3(a) of  
21          the Securities Exchange Act of 1934);  
22          “(VI) bank employees do not di-  
23          rectly receive incentive compensation  
24          for any brokerage transaction unless  
25          such employees are associated persons

1 of a broker or dealer and are qualified  
2 pursuant to the requirements of a  
3 self-regulatory organization (as so de-  
4 fined) except that the bank employees  
5 may receive nominal cash and  
6 noncash compensation for customer  
7 referrals if the cash compensation is a  
8 one-time fee of a fixed dollar amount  
9 and the payment of the fee is not con-  
10 tingent on whether the referral results  
11 in a transaction;

12 “(VII) such services are provided  
13 by the broker or dealer on a basis in  
14 which all customers which receive any  
15 services are fully disclosed to the  
16 broker or dealer; and

17 “(VIII) the broker or dealer in-  
18 forms each customer that the broker-  
19 age services are provided by the  
20 broker or dealer and not by the bank  
21 and that the securities are not depos-  
22 its or other obligations of the bank,  
23 are not guaranteed by the bank, and  
24 are not insured by the Federal De-  
25 posit Insurance Corporation.

1           “(ii) TRUST ACTIVITIES.—The bank  
2           engages in trust activities (including  
3           effecting transactions in the course of such  
4           trust activities) permissible for national  
5           banks under the first section of the Act of  
6           September 28, 1962, or for State banks  
7           under relevant State trust statutes or law  
8           (including securities safekeeping, self-di-  
9           rected individual retirement accounts, or  
10          managed agency accounts or other func-  
11          tionally equivalent accounts of a bank) un-  
12          less the bank—

13                 “(I) publicly solicits brokerage  
14                 business, other than by advertising  
15                 that it effects transactions in securi-  
16                 ties in conjunction with advertising its  
17                 other activities; or

18                 “(II) receives incentive com-  
19                 pensation for such brokerage activi-  
20                 ties.

21           “(iii) PERMISSIBLE SECURITIES  
22           TRANSACTIONS.—The bank effects trans-  
23           actions in exempted securities, other than  
24           municipal securities, in commercial paper,  
25           bankers acceptances, commercial bills,

1 qualified Canadian Government obligations  
2 as defined in section 5136 of the Revised  
3 Statutes, obligations of the Washington  
4 Metropolitan Area Transit Authority which  
5 are guaranteed by the Secretary of Trans-  
6 portation under section 9 of the National  
7 Capital Transportation Act of 1969, obli-  
8 gations of the North American Develop-  
9 ment Bank, and obligations of any local  
10 public agency (as defined in section 110(h)  
11 of the Housing Act of 1949) or any public  
12 housing agency (as defined in the United  
13 States Housing Act of 1937) that are ex-  
14 pressly authorized by section 5136 of the  
15 Revised Statutes of the United States as  
16 permissible for a national bank to under-  
17 write or deal in.

18 “(iv) MUNICIPAL SECURITIES.—The  
19 bank effects transactions in municipal se-  
20 curities.

21 “(v) EMPLOYEE AND SHAREHOLDER  
22 BENEFIT PLANS.—The bank effects trans-  
23 actions as part of any bonus, profit-shar-  
24 ing, pension, retirement, thrift, savings, in-  
25 centive, stock purchase, stock ownership,

1 stock appreciation, stock option, dividend  
2 reinvestment, or similar plan for employees  
3 or shareholders of an issuer or its subsidi-  
4 aries.

5 “(vi) SWEEP ACCOUNTS.—The bank  
6 effects transactions as part of a program  
7 for the investment or reinvestment of bank  
8 deposit funds into any no-load, open-end  
9 management investment company reg-  
10 istered under the Investment Company Act  
11 of 1940 that holds itself out as a money  
12 market fund.

13 “(vii) AFFILIATE TRANSACTIONS.—  
14 The bank effects transactions for the ac-  
15 count of any affiliate of the bank, as de-  
16 fined in section 102(c) of the Financial  
17 Services Holding Company Act.

18 “(viii) PRIVATE SECURITIES OFFER-  
19 INGS.—The bank—

20 “(I) effects sales as part of pri-  
21 mary offering of securities by an is-  
22 suer, not involving a public offering,  
23 pursuant to section 3(b), 4(2), or 4(6)  
24 of the Securities Act of 1933 and the

1 rules and regulations issued there-  
2 under; and

3 “(II) effects such sales exclu-  
4 sively to an accredited investor, as de-  
5 fined in section 3 of the Securities Act  
6 of 1933.

7 “(ix) DE MINIMUS EXEMPTION.—If  
8 the bank does not have a subsidiary or af-  
9 filiate registered as a broker or dealer  
10 under section 15, the bank effects, other  
11 than in transactions referred to in causes  
12 (i) through (viii), not more than—

13 “(I) 800 transactions in any cal-  
14 endar year in securities for which a  
15 ready market exists, and

16 “(II) 200 other transactions in  
17 securities in any calendar year.

18 “(x) SAFEKEEPING AND CUSTODY  
19 SERVICES.—The bank, as part of cus-  
20 tomary banking activities—

21 “(I) provides safekeeping or cus-  
22 tody services with respect to securi-  
23 ties, including the exercise of warrants  
24 or other rights on behalf of customers;

1 “(II) clears or settles trans-  
2 actions in securities;

3 “(III) effects securities lending  
4 or borrowing transactions with or on  
5 behalf of customers as part of services  
6 provided to customers pursuant to  
7 subclauses (I) and (II) or invests cash  
8 collateral pledged in connection with  
9 such transactions; or

10 “(IV) holds securities pledged by  
11 one customer to another customer or  
12 securities subject to resale agreements  
13 between customers or facilitates the  
14 pledging or transfer of such securities  
15 by book entry.

16 “(xi) BANKING PRODUCTS.—The bank  
17 effects transactions in products that—

18 “(I) are described in section  
19 121(c)(2) of the Financial Services  
20 Holding Company Act; or

21 “(II) have been exempted by the  
22 appropriate Federal banking agency  
23 pursuant to section 121(c)(3) of such  
24 Act.

1           “(D) EXEMPTION FOR ENTITIES SUBJECT  
2           TO SECTION 15(e).—The term ‘broker’ does not  
3           include a bank that—

4                   “(i) was, immediately prior to the en-  
5                   actment of the Depository Institution Af-  
6                   filiation Act of 1995, subject to section  
7                   15(e); and

8                   “(ii) is subject to such restrictions  
9                   and requirements as the Commission con-  
10                  siders appropriate.”.

11 **SEC. 302. DEFINITION OF DEALER.**

12           Section 3(a)(5) of the Securities Exchange Act of  
13   1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

14           “(5) DEALER.—

15                   “(A) IN GENERAL.—The term ‘dealer’  
16                   means any person engaged in the business of  
17                   buying and selling securities for such person’s  
18                   own account through a broker or otherwise.

19                   “(B) EXCEPTION FOR PERSON NOT EN-  
20                   GAGED IN THE BUSINESS OF DEALING.—The  
21                   term ‘dealer’ does not include a person that  
22                   buys or sells securities for such person’s own  
23                   account, either individually or in a fiduciary ca-  
24                   pacity, but not as a part of a regular business.

1           “(C) EXCLUSION OF BANKS.—The term  
2           ‘dealer’ does not include a bank unless such  
3           bank is affiliated with a financial services hold-  
4           ing company, as defined in section 102(a) of  
5           the Financial Services Holding Company Act.

6           “(D) EXEMPTION FOR CERTAIN BANK AC-  
7           TIVITIES.—A bank shall not be considered to be  
8           a dealer because the bank engages in any of the  
9           following activities under the conditions de-  
10          scribed:

11                 “(i) The bank buys and sells commer-  
12                 cial paper, bankers acceptances, exempted  
13                 securities (other than municipal securities),  
14                 qualified Canadian Government obligations  
15                 as defined in section 5136 of the Revised  
16                 Statutes, obligations of the Washington  
17                 Metropolitan Area Transit Authority which  
18                 are guaranteed by the Secretary of Trans-  
19                 portation under section 9 of the National  
20                 Capital Transportation Act of 1969, obli-  
21                 gations of the North American Develop-  
22                 ment Bank, and obligations of any local  
23                 public agency (as defined in section 110(h)  
24                 of the Housing Act of 1949) or any public  
25                 agency (as defined in the United States

1           Housing Act of 1937) that are expressly  
2           authorized by section 5136 of the Revised  
3           Statutes of the United States as permis-  
4           sible for a national bank to underwrite or  
5           deal in.

6           “(ii) The bank buys and sells munici-  
7           pal securities that are expressly authorized  
8           by section 5136 of the Revised Statutes of  
9           the United States as permissible for a na-  
10          tional bank to underwrite or deal in.

11          “(iii) The bank buys and sells securi-  
12          ties for investment purposes for the bank  
13          or for accounts for which the bank acts as  
14          a trustee or fiduciary.

15          “(iv) The bank—

16               “(I) has not been affiliated with  
17               a securities affiliate for purposes of  
18               the Financial Services Holding Com-  
19               pany Act for more than 1 year; and

20               “(II) engages in the issuance or  
21               sale, through a grantor trust or other-  
22               wise, of securities backed by or rep-  
23               resenting an interest in notes, drafts,  
24               acceptances, loans, leases, receivables,  
25               other obligations, or pools of any such

1 obligations originated or purchased by  
2 the bank or any affiliate of the bank.

3 “(v) The bank buys and sells products  
4 that—

5 “(I) are described in section  
6 121(c)(2) of the Financial Services  
7 Holding Company Act; or

8 “(II) have been exempted by the  
9 appropriate Federal banking agency  
10 pursuant to section 121(c)(3) of such  
11 Act.”.

12 **SEC. 303. POWER TO EXEMPT FROM THE DEFINITIONS OF**  
13 **BROKER AND DEALER.**

14 Section 3 of the Securities Exchange Act of 1934 (15  
15 U.S.C. 78c) is amended by adding at the end the follow-  
16 ing:

17 “(e) EXEMPTION FROM THE DEFINITION OF  
18 BROKER AND DEALER.—The Commission, by regulation  
19 or order, upon its own motion or upon application, may  
20 conditionally or unconditionally exclude any person or  
21 class of persons from the definitions of ‘broker’ or ‘dealer’,  
22 if the Commission finds that such exclusion is consistent  
23 with the public interest, the protection of investors, and  
24 the purposes of this title.”.

1 **SEC. 304. MARGIN REQUIREMENTS.**

2 (a) Section 7(d) of the Securities Exchange Act of  
 3 1934 (15 U.S.C. 15g(d)) is amended by striking “or (E)”  
 4 and inserting “(E) to a loan to a broker or dealer by a  
 5 member bank or any other person that has entered into  
 6 an agreement pursuant to section 8(a) if the proceeds of  
 7 the loan are to be used in the ordinary course of the bro-  
 8 ker’s or dealer’s business other than for the purpose of  
 9 funding the purchase of securities for the account of such  
 10 broker or dealer, or (F)”.

11 (b) Section 8(a) of the Securities and Exchange Act  
 12 of 1934 is amended—

13 (1) by striking “nonmember bank” and insert-  
 14 ing “person other than a member bank”; and

15 (2) by striking “such bank” in the second sen-  
 16 tence and inserting “such person”.

17 **Subtitle B—Investment Company Provisions**

18 **SEC. 311. CUSTODY OF INVESTMENT COMPANY ASSETS BY**  
 19 **AFFILIATED BANK.**

20 (a) MANAGEMENT COMPANIES.—Section 17(f) of the  
 21 Investment Company Act of 1940 (15 U.S.C. 80a–17(f))  
 22 is amended—

23 (1) by redesignating paragraphs (1), (2), and  
 24 (3) as subparagraphs (A), (B), and (A), (B), and  
 25 (C), respectively;

1           (2) by striking “(f) Every, registered” and in-  
2       serting “(f) CUSTODY OF SECURITIES.—

3           (1) Every registered”;

4           (C) by designating the second, third,  
5       fourth, and fifth sentences of such subsection  
6       as paragraphs (2) through (5), respectively, and  
7       indenting the left margin of such paragraphs  
8       appropriately; and

9           (D) by adding at the end the following new  
10       paragraph:

11       “(6) Notwithstanding any provision of this sub-  
12       section, if a bank described in paragraph (1) and af-  
13       filiated with a financial services company, as defined  
14       in section 102(a) of the Financial Services Holding  
15       Company Act, or an affiliated person of such bank,  
16       is an affiliated person, promoter, organizer, or spon-  
17       sor of, or principal underwriter for the registered  
18       company, such bank may serve as custodian under  
19       this subsection in accordance with such rules, regu-  
20       lations, or orders as the Commission may prescribe,  
21       consistent with the protection of investors, after con-  
22       sulting in writing with the appropriate Federal  
23       banking agency, as defined in section 3 of the Fed-  
24       eral Deposit Insurance Act.”.

1       (b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of  
2 the Investment Company Act of 1940 (15 U.S.C. 80a–  
3 26(a)(1)) is amended by inserting before the semicolon at  
4 the end the following: “, except that, if the trustee or cus-  
5 todian described in this subsection is an affiliated person  
6 of such underwriter or depositor and of a financial services  
7 holding company, as defined in section 102(a) of the Fi-  
8 nancial Services Holding Company Act, the Commission  
9 may adopt rules and regulations or issue orders, consistent  
10 with the protection of investors, prescribing the conditions  
11 under which such trustee or custodian may serve, after  
12 consulting in writing with the appropriate Federal bank-  
13 ing agency (as defined in section 3 of the Federal Deposit  
14 Insurance Act)”.

15       (c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a)  
16 of the Investment Company Act of 1940 (15 U.S.C. 80a–  
17 35(a)) is amended—

18               (1) in paragraph (1), by striking “or” at the  
19 end;

20               (2) in paragraph (2), by striking the period at  
21 the end and inserting “; or”; and

22               (3) by inserting after paragraph (2) the follow-  
23 ing:

24               “(3) if affiliated with a financial services hold-  
25 ing company, as defined section 102(a) of the Fi-

3 SEC. 312. LENDING TO AN AFFILIATED INVESTMENT COM-  
4 PANY.

5       Section 18 of the Investment Company Act of 1940  
6   (15 U.S.C. 80a–18) is amended by adding at the end the  
7   following:

8           “(1) Notwithstanding any provision of this section, it  
9 shall be unlawful for any affiliated person of a registered  
10 investment company that is affiliated with a financial serv-  
11 ices holding company, as defined in section 102(a) of the  
12 Financial Services Holding Company Act, or any affiliated  
13 person of such a person, to loan money to such investment  
14 company in contravention of such rules, regulations, or or-  
15 ders as the Commission may prescribe in the public inter-  
16 est and consistent with the protection of investors.”.

**17 SEC. 313. INDEPENDENT DIRECTORS.**

(a) IN GENERAL.—Section 2(a)(19)(A) of the Invest-  
ment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A))  
is amended—

21 (1) by striking clause (v) and inserting the fol-  
22 lowing new clause:

“(v) any person affiliated with a financial services holding company (other than a registered investment company)

1           that, at any time during the preceding 6  
2           months, has executed any portfolio trans-  
3           actions for, engaged in any principal trans-  
4           actions with, or distributed shares for—

5                     “(I) the investment company,

6                     “(II) any other investment com-  
7                     pany having the same investment ad-  
8                     viser as such investment company or  
9                     holding itself out to investors as a re-  
10                    lated company for purposes of invest-  
11                    ment or investor services, or

12                   “(III) any account over which the  
13                   investment company’s investment ad-  
14                   viser has brokerage placement discre-  
15                   tion,

16       or any affiliated person of such a person,”;

17           (2) by redesignating clause (vi) as clause (vii)

18       and

19           (3) by inserting after clause (v) the following  
20       new clause:

21                   “(vi) any person affiliated with a fi-  
22                   nancial services holding company (other  
23                   than a registered investment company)  
24                   that, at any time during the preceding 6  
25                   months, has loaned money to—

1 “(I) the investment company,

2 “(II) any other investment com-  
 3 pany having the same investment ad-  
 4 viser as such investment company or  
 5 holding itself out to investors as a re-  
 6 lated company for purposes of invest-  
 7 ment or investor services, or

8 “(III) any account for which the  
 9 investment company’s investment ad-  
 10 viser has borrowing authority,  
 11 or any affiliated person of such a person,  
 12 or”.

13 (b) AFFILIATION OF DIRECTORS.—Section 10(c) of  
 14 the Investment Company Act of 1940 (15 U.S.C. 80a–  
 15 10(c)) is amended by striking, “bank, except” and insert-  
 16 ing “bank affiliated with a financial services holding com-  
 17 pany (and its subsidiaries) or any single financial services  
 18 holding company (and its affiliates and subsidiaries), as  
 19 those terms are defined in the Financial Services Holding  
 20 Company Act of 1995, except”.

21 (c) EFFECTIVE DATE.—The provisions of subsection  
 22 (a) of this section shall become effective 1 year after the  
 23 effective date of this subtitle.

1 **SEC. 314. ADDITIONAL SEC DISCLOSURE AUTHORITY.**

2 (a) MISREPRESENTATION.—Section 35(a) of the In-  
3 vestment Company Act of 1940 (15 U.S.C. 80a–34(a)) is  
4 amended to read as follows:

5 “(a) MISREPRESENTATION OF GUARANTEES.—

6 “(1) IN GENERAL.—It shall be unlawful for any  
7 person, issuing or selling any security of which a  
8 registered investment company is the issuer, to rep-  
9 resent or imply in any manner whatsoever that such  
10 security or company—

11 “(A) has been guaranteed, sponsored, rec-  
12 ommended, or approved by the United States,  
13 or any agency, instrumentality or officer of the  
14 United States;

15 “(B) has been insured by the Federal De-  
16 posit Insurance Corporation;

17 “(C) is guaranteed by or is otherwise an  
18 obligation of any bank or insured depository in-  
19 stitution.

20 “(2) DISCLOSURES.—Any person that is affili-  
21 ated with an insured depository institution and is-  
22 sues or sells the securities of a registered investment  
23 company shall prominently disclose that the invest-  
24 ment company or any security issued by the invest-  
25 ment company—

1           “(A) is not insured by the Federal Deposit  
2           Insurance Corporation;

3           “(B) is not guaranteed by an affiliated in-  
4           sured depository institution; and

5           “(C) is not otherwise an obligation of any  
6           bank or insured depository institution,  
7           in accordance with such rules, regulations, or orders  
8           as the Commission may prescribe as reasonably nec-  
9           essary or appropriate in the public interest for the  
10          protection of investors, after consulting in writing  
11          with the appropriate Federal banking agencies.

12          “(3) DEFINITIONS.—The terms ‘insured depository  
13          institution’ and ‘appropriate Federal banking  
14          agency’ have the meanings given to such terms in  
15          section 3 of the Federal Deposit Insurance Act.”.

16          (b) DECEPTIVE USE OF NAMES.—Section 35(d) of  
17          the Investment Company Act of 1940 (15 U.S.C. 80a–  
18          34(d)) is amended to read as follows:

19          “(d)(1) It shall be unlawful for any registered invest-  
20          ment company to adopt as part of the name or title of  
21          such company, or any securities of which it is the issuer,  
22          any word or words that the Commission finds are materi-  
23          ally deceptive or misleading. The Commission may adopt  
24          such rules or regulations or issue such orders as are nec-

1    essary or appropriate to prevent the use of deceptive or  
2    misleading names or titles by investment companies.

3           “(2) It shall be deceptive and misleading for any reg-  
4    istered investment company—

5           “(A) that is an affiliated person of a bank that  
6           is affiliated with a financial service holding company,  
7           as defined in section 102(a) of the Financial Serv-  
8           ices Holding Company Act, or an affiliated person of  
9           such person, or

10          “(B) for which a bank that is affiliated with a  
11          financial service holding company, as defined in sec-  
12          tion 102(a) of the Financial Services Holding Com-  
13          pany Act, or an affiliated person of such a bank,  
14          acts as investment adviser, sponsor, promoter, or  
15          principal underwriter,

16    to adopt, as part of the name or title such company, or  
17    of any security of which it is an issuer, any word that  
18    is the same or similar to, or a variation of, the name or  
19    title of such bank, in contravention of such rules, regula-  
20    tions, or orders as the Commission may, prescribe as nec-  
21    essary or appropriate in the public interest or for the pro-  
22    tection of investors.”.

1 **SEC. 315. DEFINITION OF BROKER UNDER THE INVEST-**  
2 **MENT COMPANY ACT OF 1940.**

3 Section 2(a)(6) of the Investment Company Act of  
4 1940 (15 U.S.C. 89a–2(a)(6)) is amended to read as fol-  
5 lows:

6 “(6) The term ‘broker’ has the same meaning  
7 as in the Securities Exchange Act of 1934, except  
8 that such term does not include any person solely by  
9 reason of the fact that such person is an underwriter  
10 for one or more investment companies.”.

11 **SEC. 316. DEFINITION OF DEALER UNDER THE INVEST-**  
12 **MENT COMPANY ACT OF 1940.**

13 Section 2(a)(11) of the Investment Company Act of  
14 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as fol-  
15 lows:

16 “(11) The term ‘dealer’ has the same meaning  
17 as in the Securities Exchange Act of 1934, but does  
18 not include an insurance company or investment  
19 company.”.

20 **SEC. 317. REMOVAL OF THE EXCLUSION FROM THE DEFINI-**  
21 **TION OF INVESTMENT ADVISER FOR BANKS**  
22 **THAT ADVISE INVESTMENT COMPANIES.**

23 (a) INVESTMENT ADVISER.—Section 202(a)(11) of  
24 the Investment Advisers Act of 1940 (15 U.S.C. 80b–  
25 2(a)(11)) is amended in subparagraph (A), by striking  
26 “investment company” and inserting “investment com-

pany, except that the term ‘investment adviser’ includes any financial services holding company, as defined in section 102(a) of the Financial Services Holding Company Act, or any bank affiliated with such company, to the extent that such financial services holding company or bank acts as an investment adviser to a registered investment company, or if, in the case of such a bank, such services are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser”.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

“(25) The term ‘separately identifiable department or division’ of a bank means a unit—

“(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank’s investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

1           “(B) for which all of the records relating  
 2           to its investment adviser activities are sepa-  
 3           rately maintained in or extractable from such  
 4           unit’s own facilities or the facilities of the bank,  
 5           and such records are so maintained or other-  
 6           wise accessible as to permit independent exam-  
 7           ination and enforcement of this Act or the In-  
 8           vestment Company Act of 1940 and rules and  
 9           regulations promulgated under this Act or the  
 10          Investment Company Act of 1940.”.

11 **SEC. 318. DEFINITION OF BROKER UNDER THE INVEST-**  
 12 **MENT ADVISERS ACT OF 1940.**

13          Section 202(a)(3) of the Investment Advisers Act of  
 14   1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as fol-  
 15   lows:

16           “(3) The term ‘broker’ has the same meaning  
 17          as in the Securities Exchange Act of 1934.”.

18 **SEC. 319. DEFINITION OF DEALER UNDER THE INVEST-**  
 19 **MENT ADVISERS ACT OF 1940.**

20          Section 202(a)(7) of the Investment Advisers Act of  
 21   1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as fol-  
 22   lows:

23           “(7) The term ‘dealer’ has the same meaning as  
 24          in the Securities Exchange Act of 1934, but does

1 not include an insurance company or investment  
2 company.”.

3 **SEC. 320. INTERAGENCY CONSULTATION.**

4 The Investment Advisers Act of 1940 (15 U.S.C.  
5 80b–1 et seq.) is amended by inserting after section 210  
6 the following new section:

7 **“SEC. 210A. CONSULTATION.**

8 “(a) EXAMINATION RESULTS AND OTHER INFORMA-  
9 TION.—

10 “(1) The appropriate Federal banking agency  
11 shall provide the Commission upon request the re-  
12 sults of any examination, reports, records, or other  
13 information as each may have access to with respect  
14 to the investment advisory activities of any financial  
15 services holding company, as defined in section  
16 102(a) of the Financial Services Holding Company  
17 Act, bank that is affiliated with a financial services  
18 holding company, or separately identifiable depart-  
19 ment or division of a bank, that is registered under  
20 section 203 of this title, or, in the case of a financial  
21 services holding company or affiliated bank, that has  
22 a subsidiary or a separately identifiable department  
23 or division registered under that section, to the ex-  
24 tent necessary for the Commission to carry out its  
25 statutory responsibilities.

1           “(2) The Commission shall provide to the ap-  
2           propriate Federal banking agency upon request the  
3           results of any examination, reports, records, or other  
4           information with respect to the investment advisory  
5           activities of any financial services holding company,  
6           bank that is affiliated with a financial services hold-  
7           ing company, or separately identifiable department  
8           or division of a bank, any of which is registered  
9           under section 203 of this title, to the extent nec-  
10          essary for the agency to carry out its statutory re-  
11          sponsibilities.

12          “(b) EFFECT ON OTHER AUTHORITY.—Nothing  
13          herein shall limit in any respect the authority of the appro-  
14          priate Federal banking agency with respect to such finan-  
15          cial services holding company, bank that is affiliated with  
16          a financial services holding company, or department or di-  
17          vision under any provision of law.

18          “(c) DEFINITION.—For purposes of this section, the  
19          term ‘appropriate Federal banking agency’ shall have the  
20          same meaning as in section 3 of the Federal Deposit in-  
21          surance Act.”

22          **SEC. 321. TREATMENT OF BANK COMMON TRUST FUNDS.**

23          (a) SECURITIES ACT OF 1933.—Section 3(a)(2) of  
24          the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is  
25          amended by striking “or any interest or participation in

1 any common trust fund or similar fund maintained by a  
 2 bank exclusively for the collective investment and reinvest-  
 3 ment of assets contributed thereto by such bank in its ca-  
 4 pacity as trustee, executor, administrator, or guardian”  
 5 and inserting “or any interest or participation in any com-  
 6 mon trust fund or similar fund that is excluded from the  
 7 definition of the term ‘investment company’ under section  
 8 3(c)(3) of the Investment Company Act of 1940”.

9 (b) SECURITIES EXCHANGE ACT OF 1934.—Section  
 10 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934  
 11 (15 U.S.C. 78c(a)(12)(A)(iii) is amended to read as fol-  
 12 lows:

13 “(iii) any interest or participation in  
 14 any common trust fund or similar fund  
 15 that is excluded from the definition of the  
 16 term ‘investment company’ under section  
 17 3(c)(3) of the Investment Company Act of  
 18 1940;”.

19 (c) INVESTMENT COMPANY ACT OF 1940.—Section  
 20 3(c)(3) of the Investment Company Act of 1940 (15  
 21 U.S.C. 80a-3(c)(3)) is amended by inserting before the  
 22 period the following: ”, if—

23 “(A) such fund is employed by the bank  
 24 solely as an aid to the administration of trusts,

1           estates, or other accounts created and main-  
2           tained for a fiduciary purpose;

3           “(B) except if the bank is not affiliated  
4           with a financial services holding company, as  
5           defined in section 102(a) of the Financial Serv-  
6           ices Holding Company Act, or in connection  
7           with the ordinary advertising of the bank’s fidu-  
8           ciary services, interests in such fund are not—

9                       “(i) advertised; or

10                      “(ii) offered for sale to the general  
11                      public, and

12           “(C) fees and expenses charged by such  
13           fund are not in contravention of fiduciary prin-  
14           ciples established under applicable Federal or  
15           State law.”

16 **SEC. 322. INVESTMENT ADVISERS PROHIBITED FROM HAV-**  
17 **ING CONTROLLING INTEREST IN REG-**  
18 **ISTERED INVESTMENT COMPANY.**

19           Section 15 of the Investment Company Act of 1940  
20           (15 U.S.C. 80a–15) is amended by adding at the end the  
21           following new subsection:

22           “(g) CONTROLLING INTEREST IN INVESTMENT COM-  
23           PANY PROHIBITED.—

24                      “(1) IN GENERAL.—If any investment adviser  
25           to a registered investment company, or an affiliated

1 person of that investment adviser, holds a control-  
2 ling interest in that registered investment company  
3 in a trustee or fiduciary capacity, such person  
4 shall—

5 “(A) if it holds the shares in a trustee or  
6 fiduciary capacity with respect to any employee  
7 benefit plan subject to the Employee Retirement  
8 Income Security Act of 1974, transfer the  
9 power to vote the shares of the investment com-  
10 pany through to another person acting in a fi-  
11 duciary capacity with respect to the plan who is  
12 not an affiliated person of that investment ad-  
13 viser or any affiliated person thereof; or

14 “(B) if it holds the shares in a trustee or  
15 fiduciary capacity with respect to any other per-  
16 son or entity other than an employee benefit  
17 plan subject to the Employee Retirement In-  
18 come Security Act of 1974—

19 “(i) transfer the power to vote the  
20 shares of the investment company through  
21 to—

22 “(I) the beneficial owners of the  
23 shares;

24 “(II) another person acting in a  
25 fiduciary capacity who is not an affili-

1           ated person of that investment adviser  
2           or any affiliated person thereof; or

3                   “(III) any person authorized to  
4           receive statements and information  
5           with respect to the trust who is not an  
6           affiliated person of that investment  
7           adviser or any affiliated person there-  
8           of;

9                   “(ii) vote the shares of the investment  
10          company held by it in the same proportion  
11          as shares held by all other shareholders of  
12          the company; or

13                  “(iii) vote the shares of the invest-  
14          ment company as otherwise permitted  
15          under such rules, regulations, or orders as  
16          the Commission may prescribe for the pro-  
17          tection of investors.

18                  “(2) EXEMPTION.—Paragraph (1) shall not  
19          apply to any investment adviser to a registered in-  
20          vestment company, or an affiliated person of that in-  
21          vestment adviser, if such investment adviser or affili-  
22          ated person—

23                          “(A) is not affiliated with a financial serv-  
24          ices holding company, as defined in section

1           102(a) of the Financial Services Holding Com-  
2           pany Act; or

3           “(B) holds shares of the investment com-  
4           pany in a trustee or fiduciary capacity if that  
5           registered investment company consists solely of  
6           assets held in such capacities.

7           “(3) SAFE HARBOR.—No investment adviser to  
8           a registered investment company or any affiliated  
9           person of such investment adviser shall be deemed to  
10          have acted unlawfully or to have breached a fidu-  
11          ciary duty under State or Federal law solely by rea-  
12          son of acting in accordance with clause (i), (ii), or  
13          (iii) of paragraph (1)(B).

14          “(4) CHURCH PLAN EXEMPTION.—Paragraph  
15          (1) shall not apply to any investment adviser to a  
16          registered investment company, or an affiliated per-  
17          son of that investment adviser, holding shares in  
18          such a capacity, if such investment adviser or such  
19          affiliated person is an organization described in sec-  
20          tion 414(e)(3)(A) of the Internal Revenue Code of  
21          1986.”.

22 **SEC. 323. CONFORMING CHANGE IN DEFINITION.**

23          Section 2(a)(5) of the Investment Company Act of  
24          1940 (15 U.S.C. 80a-2(a)(5)) is amended by striking  
25          “(A) a banking institution under the laws of the United

1 States” and inserting “(A) a depository institution (as de-  
 2 fined in section 3 of the Federal Deposit Insurance Act)  
 3 or a branch or agency of a foreign bank (as such terms  
 4 are defined in section 101(b) of the International Banking  
 5 Act of 1978)”.

6 **SEC. 324. EFFECTIVE DATE.**

7 This subtitle shall take effect 270 days after the ef-  
 8 fective date of this Title.

9 **TITLE IV—WHOLESALE FINANCIAL INSTI-**  
 10 **TUTIONS OWNED BY FINANCIAL SERV-**  
 11 **ICES HOLDING COMPANIES**

12 **SEC. 401. NATIONAL WHOLESALE FINANCIAL INSTITU-**  
 13 **TIONS.**

14 Chapter 1 of Title LXII of the Revised Statutes of  
 15 the United States (12 U.S.C. 21 et seq.) is amended by  
 16 inserting after section 5136A the following new section:

17 **“SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITU-**  
 18 **TIONS.**

19 “(a) NATIONAL WHOLESALE FINANCIAL INSTITU-  
 20 TIONS.—Any financial services holding company (as de-  
 21 fined in Section 102(a) of the Financial Services Holding  
 22 Company Act) may apply to the Comptroller of the Cur-  
 23 rency on such forms and in accordance with such proce-  
 24 dures as the Comptroller may prescribe by regulation, for  
 25 permission to organize a national wholesale financial insti-

1   tution. Upon approval of the application, such national  
2   wholesale financial institution shall be a body corporate,  
3   chartered under the laws of the United States by the  
4   Comptroller. A national wholesale financial institution  
5   shall operate pursuant to the requirements of this section  
6   at the direction of a board of directors elected at an orga-  
7   nizational meeting, to be held as soon as practicable after  
8   issuance by the Comptroller of a charter, by such financial  
9   services holding company for the purpose of electing such  
10  board of directors and taking such other action necessary,  
11  pursuant to the charter and the regulations issued by the  
12  Comptroller, to complete the corporate organization of the  
13  national wholesale financial institution. Immediately fol-  
14  lowing its election, the board of directors shall meet to  
15  elect the officers of the national wholesale financial insti-  
16  tution and to take such other action, as prescribed by the  
17  Comptroller, to complete the corporate organization of  
18  such national wholesale financial institution.

19       “(b) UNAUTHORIZED ORGANIZATION PROHIBITED.—

20           “(1) IN GENERAL.—No person may organize a  
21   national wholesale financial institution, collect  
22   money from others for such purpose, or represent  
23   himself or herself as authorized to do so and no na-  
24   tional wholesale financial institution shall transact  
25   any business prior to completion of its organization

1       except as provided in this section and in implement-  
2       ing regulations of the Comptroller.

3               “(2) INSURANCE TERMINATION.—No bank that  
4       is insured under the Federal Deposit Insurance Act  
5       may become a national wholesale financial institu-  
6       tion unless—

7                       “(A) it has met all the requirements under  
8                       that Act for voluntary termination of deposit in-  
9                       surance; and

10                      “(B) it is affiliated with a financial service  
11                      holding company, as defined in section 102(a)  
12                      of the Financial Services Holding Company  
13                      Act.

14       “(c) AUTHORIZED ACTIVITIES FOR NATIONAL  
15       WHOLESALE FINANCIAL INSTITUTION.—Except as other-  
16       wise provided in this section, a national wholesale financial  
17       institution—

18                      “(1) may exercise, in accordance with its arti-  
19                      cles of organization and such regulations as are is-  
20                      sued by the Comptroller, all of the powers and privi-  
21                      leges of a national banking association formed in ac-  
22                      cordance with section 5133 of the Revised Statutes  
23                      of the United States; and

24                      “(2) shall be subject to any provision of title  
25       LXII of the Revised Statutes of the United States

1       that is applicable to a national banking association  
2       that is not a national wholesale financial institution.

3       “(d) TERMINATION.—A national wholesale financial  
4 institution may terminate its status as a national banking  
5 association only with the prior written approval of the  
6 Comptroller and on terms and conditions that the Comp-  
7 troller determines are appropriate to carry out the pur-  
8 poses of this section.

9       “(e) PROMPT CORRECTIVE ACTION.—A national  
10 wholesale financial institution shall be deemed to be an  
11 insured depository institution for purposes of section 38  
12 of the Federal Deposit Insurance Act except that—

13           “(1) the relevant capital levels and capital  
14 measures for each capital category shall be the levels  
15 specified by the Comptroller for national wholesale  
16 financial institutions in accordance with subsection  
17 (i)(2);

18           “(2) the provisions applicable to well capitalized  
19 insured depository institutions shall be inapplicable  
20 to national wholesale financial institutions;

21           “(3) the provisions authorizing or requiring an  
22 institution to be placed into receivership shall not  
23 apply to a national wholesale financial institution,  
24 and, instead, the Comptroller is authorized or re-

1       quired to place the national wholesale financial insti-  
2       tution into conservatorship; and

3               “(4) for purposes of applying the provisions of  
4       section 38 of the Federal Deposit Insurance Act to  
5       national wholesale financial institutions, all ref-  
6       erences to the appropriate Federal banking agency  
7       or to the Corporation in that section shall be deemed  
8       to be references to the Comptroller.

9       “(f) ENFORCEMENT AUTHORITY.—Subsections (j)  
10   and (k) of section 7, subsections (b) through (n), (s), (u),  
11   and (v) of section 8, and section 19 of the Federal Deposit  
12   Insurance Act shall apply to a national wholesale financial  
13   institution in the same manner and to the same extent  
14   as such provisions apply to insured national banks and  
15   any references in such sections to an insured depository  
16   institution shall be deemed, for purposes of this para-  
17   graph, to be a reference to a national wholesale financial  
18   institution.

19       “(g) CERTAIN OTHER STATUTES APPLICABLE.—A  
20   national wholesale financial institution shall be deemed to  
21   be a banking institution, and the Comptroller shall be the  
22   appropriate Federal banking agency for such bank and all  
23   such bank’s affiliates, for purposes of the International  
24   Lending Supervision Act.

1       “(h) BANK MERGER ACT.—A national wholesale fi-  
2 nancial institution shall be subject to the provisions of sec-  
3 tions 18(c) and 44 of the Federal Deposit Insurance Act  
4 in the same manner and to the same extent the national  
5 wholesale financial institution would be subject to such  
6 sections if the institution were an insured national bank.

7       “(i) SPECIFIC REQUIREMENTS APPLICABLE TO NA-  
8 TIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

9               “(1) LIMITATIONS ON DEPOSITS.—

10                   “(A) MINIMUM AMOUNT.—

11                           “(i) IN GENERAL.—Pursuant to such  
12 regulations as the Comptroller may pre-  
13 scribe, no national wholesale financial in-  
14 stitution may receive initial deposits of  
15 \$100,000 or less, other than on an inciden-  
16 tal or occasional basis.

17                           “(ii) LIMITATION ON DEPOSITS OF  
18 LESS THAN \$100,000.—No bank may be  
19 treated as a national wholesale financial  
20 institution if the total amount of the initial  
21 deposits of \$100,000 or less at such bank  
22 constitutes more than 5 percent of the  
23 bank’s total deposits.

24                           “(B) NO DEPOSIT INSURANCE.—No depos-  
25 its held by a national wholesale financial insti-

1           tution shall be insured deposits under the Fed-  
2           eral Deposit Insurance Act.

3           “(C) ADVERTISING AND DISCLOSURE.—

4           The Comptroller shall prescribe regulations per-  
5           taining to advertising and disclosure by national  
6           wholesale financial institutions to ensure that  
7           each depositor is notified that deposits at such  
8           wholesale financial institution are not federally  
9           insured or otherwise guaranteed by the United  
10          States Government.

11          “(2) SPECIFIC CAPITAL REQUIREMENTS APPLI-

12          CABLE TO NATIONAL WHOLESALE FINANCIAL INSTI-  
13          TUTIONS.—

14          “(A) MINIMUM CAPITAL LEVELS.—

15                  “(i) IN GENERAL.—The Comptroller  
16                  shall, by regulation, adopt capital require-  
17                  ments for national wholesale financial in-  
18                  stitutions to—

19                  “(A) account for the status of national  
20                  wholesale financial institutions as institutions  
21                  that accept deposits that are not insured under  
22                  the Federal Deposit Insurance Act; and

23                  “(B) provide for the safe and sound oper-  
24                  ation of the national wholesale financial institu-  
25                  tion without undue risk to creditors or other

1 persons engaged in transactions with such insti-  
2 tution.

3 “(2) MINIMUM TIER 1 CAPITAL RATIO.—The  
4 minimum ratio of tier 1 capital to total risk-weight-  
5 ed assets of national wholesale financial institutions  
6 shall be not less than the level required for an in-  
7 sured national bank to be well capitalized unless the  
8 Comptroller determines otherwise, consistent with  
9 safety and soundness.

10 “(3) CAPITAL CATEGORIES FOR PROMPT COR-  
11 RECTIVE ACTION.—For purposes of applying section  
12 38 of the Federal Deposit Insurance Act with re-  
13 spect to any national wholesale financial institution,  
14 the Comptroller shall, by regulation, establish, for  
15 each relevant capital measure specified by the Comp-  
16 troller under this subsection, the levels at which a  
17 national wholesale financial institution is well cap-  
18 italized, adequately capitalized, undercapitalized, sig-  
19 nificantly undercapitalized, and critically under-  
20 capitalized.

21 “(4) ADDITIONAL REQUIREMENTS APPLICABLE  
22 TO NATIONAL WHOLESALE FINANCIAL INSTITU-  
23 TIONS.—In addition to any requirement otherwise  
24 applicable to State member banks or applicable,  
25 under this section, to national wholesale financial in-

stitutions, the Comptroller may prescribe, by regulation or order, for national wholesale financial institutions—

“(A) limitations on transaction with affiliates to prevent an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

“(B) special clearing balance requirements; and

“(C) any additional requirements that the Comptroller determines to be appropriate or necessary to—

“(i) promote the safety and soundness of the national wholesale financial institution, or

“(ii) protect creditors and other persons engaged in transactions with the national wholesale financial institution.

“(5) EXEMPTIONS FOR NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—The Comptroller may, by regulation or order, exempt any national wholesale financial institution from any provision applicable to a national bank that is not a national whole-

1 sale financial institution, if the Comptroller finds  
2 that such exemption is not inconsistent with—

3 “(A) the promotion of the safety and  
4 soundness of the national wholesale financial in-  
5 stitution; and

6 “(B) the protection of creditors and other  
7 persons engaged in transactions with the na-  
8 tional wholesale financial institution.

9 “(6) NO EFFECT ON OTHER PROVISIONS.—This  
10 section shall not be construed as limiting the Comp-  
11 troller’s authority over national banks under any  
12 other provision of law, or to create any obligation for  
13 any Federal reserve bank to make, increase, review,  
14 or extend any advances or discount under the Fed-  
15 eral Reserve Act to any member bank or other de-  
16 pository institution.

17 “(d) CONSERVATORSHIP AUTHORITY.—The Comp-  
18 troller may appoint a conservator to take possession and  
19 control of a national wholesale financial institution to the  
20 same extent and in the same manner as the Comptroller  
21 may appoint a conservator for a national bank under sec-  
22 tion 203 of the Bank Conservation Act, and the conserva-  
23 tor shall exercise the same powers, functions, and duties,  
24 subject to the same limitations, as are provided under such  
25 Act for conservators of national banks.

1       “(e) DEFINITIONS.—For purposes of this section, the  
2 following definitions shall apply:

3           “(1) NATIONAL WHOLESALE FINANCIAL INSTI-  
4 TUTION.—The term ‘national wholesale financial in-  
5 stitution’ means a bank that has been approved to  
6 become a national wholesale financial institution by  
7 the Comptroller under this section pursuant to an  
8 application filed under subsection (a).

9           “(2) DEPOSIT.—The term ‘deposit’ has the  
10 meaning given to such term by the Comptroller  
11 under this Section.

12       “(f) EXCLUSIVE JURISDICTION.—Subsections (c) and  
13 (e) of section 43 of the Federal Deposit Insurance Act  
14 shall not apply to any national wholesale financial institu-  
15 tion.”.

16 **SEC. 402. STATE MEMBER WHOLESALE FINANCIAL INSTITU-**  
17 **TIONS.**

18       (a) IN GENERAL.—The Federal Reserve Act (12  
19 U.S.C. 221 et seq.) is amended by inserting after section  
20 9A the following new section:

21 **“SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.**

22       “(a) APPLICATION FOR MEMBERSHIP AS WHOLE-  
23 SALE FINANCIAL INSTITUTION.—

24           “(1) APPLICATION REQUIRED.—

1           “(A) IN GENERAL.—Any bank incor-  
2           porated by special law of any State, or orga-  
3           nized under the general laws of any State, may  
4           apply to the Board of Governors of the Federal  
5           Reserve System to become a State member  
6           wholesale financial institution and to subscribe  
7           to the stock of the Federal reserve bank orga-  
8           nized within the district where the applying  
9           bank is located.

10           “(B) TREATMENT AS STATE MEMBER  
11           BANK.—Any application under subparagraph  
12           (A) shall be treated as an application to become  
13           a State member bank under, and shall be sub-  
14           ject to the provisions of, section 9.

15           “(2) INSURANCE TERMINATION.—No bank that  
16           is insured under the Federal Deposit Insurance Act  
17           may become a State member wholesale financial in-  
18           stitution unless—

19           “(A) it has met all requirements under  
20           that Act for voluntary termination of deposit in-  
21           surance; and

22           “(B) is affiliated with a financial services  
23           holding company, as defined in section 102(a)  
24           of the Financial Services Holding Company  
25           Act.

1       “(b) GENERAL REQUIREMENTS APPLICABLE TO  
2 STATE MEMBER WHOLESALE FINANCIAL INSTITU-  
3 TIONS.—

4           “(1) FEDERAL RESERVE ACT.—Except as oth-  
5 erwise provided in this section, State member whole-  
6 sale financial institutions shall be member banks  
7 and shall be subject to the provisions of this Act  
8 that apply to member banks to the same extent and  
9 in the same manner as State member insured banks,  
10 except that a State member wholesale financial insti-  
11 tution may terminate membership under this Act  
12 only with the prior written approval of the Board  
13 and on terms and conditions that the Board deter-  
14 mines are appropriate to carry out the purposes of  
15 this Act.

16           “(2) PROMPT CORRECTIVE ACTION.—A State  
17 member wholesale financial institution shall be  
18 deemed to be an insured depository institution for  
19 purposes of section 38 of the Federal Deposit Insur-  
20 ance Act except that—

21           “(A) the relevant capital levels and capital  
22 measures for each capital category shall be the  
23 levels specified by the Board for State member  
24 wholesale financial institutions in accordance  
25 with subsection (c);

1           “(B) the provisions applicable to well cap-  
2           italized insured depository institutions shall be  
3           inapplicable to wholesale financial institutions;

4           “(C) the provisions authorizing or requir-  
5           ing an institution to be placed into receivership  
6           shall not apply to a State member wholesale fi-  
7           nancial institution, and, instead, the Board is  
8           authorized or required, as the case may be, to  
9           terminate the State member wholesale financial  
10          institution’s membership in the Federal Reserve  
11          System or place the bank into conservatorship;  
12          and

13          “(D) for purposes of applying the provi-  
14          sions of section 38 of the Federal Deposit In-  
15          surance Act to State member wholesale finan-  
16          cial institutions, all references to the appro-  
17          priate Federal banking agency or to the Cor-  
18          poration in that section shall be deemed to be  
19          references to the Board.

20          “(3) ENFORCEMENT AUTHORITY.—Subsections  
21          (j) and (k) of section 7, subsections (b) through (n),  
22          (s), (u), and (v) of section 8, and section 19 of the  
23          Federal Deposit Insurance Act shall apply to a State  
24          member wholesale financial institution in the same  
25          manner and to the same extent as such provisions

1       apply to State member insured banks and any ref-  
2       erences in such sections to an insured depository in-  
3       stitution shall be deemed, for purposes of this para-  
4       graph, to be a reference to a State member whole-  
5       sale financial institution.

6               “(4) CERTAIN OTHER STATUTES APPLICA-  
7       BLE.—A State member wholesale financial institu-  
8       tion shall be deemed to be a banking institution, and  
9       the Board shall be the appropriate Federal banking  
10      agency for such bank and all such bank’s affiliates  
11      for purposes of the International Lending Super-  
12      vision Act.

13              “(5) BANK MERGER ACT.—A State member  
14      wholesale financial institution shall be subject to the  
15      provisions of sections 18(c) and 44 of the Federal  
16      Deposit Insurance Act in the same manner and to  
17      the same extent as the State member wholesale fi-  
18      nancial institution would be subject to such sections  
19      if the institution were a State member insured bank.

20              “(c) SPECIFIC REQUIREMENTS APPLICABLE TO  
21      STATE MEMBER WHOLESALE FINANCIAL INSTITU-  
22      TIONS.—

23              “(1) LIMITATIONS ON DEPOSITS.—

24              “(A) MINIMUM AMOUNT.—

1                   “(i) IN GENERAL.—Pursuant to such  
2                   regulations as the Board may prescribe, no  
3                   State member wholesale financial institu-  
4                   tion may receive initial deposits of  
5                   \$100,000 or less, other than on an inciden-  
6                   tal or occasional basis.

7                   “(ii) LIMITATION ON DEPOSITS OF  
8                   LESS THAN \$100,000.—No bank may be  
9                   treated as a State member wholesale finan-  
10                  cial institution if the total amount of the  
11                  initial deposits of \$100,000 or less at such  
12                  bank constitutes more than 5 percent of  
13                  the bank’s total deposits.

14                  “(B) NO DEPOSIT INSURANCE.—No depos-  
15                  its held by a State member wholesale financial  
16                  institution shall be insured deposits under the  
17                  Federal Deposit Insurance Act.

18                  “(C) ADVERTISING AND DISCLOSURE.—  
19                  The Board shall prescribe regulations pertain-  
20                  ing to advertising and disclosure by State mem-  
21                  ber wholesale financial institutions to ensure  
22                  that each depositor is notified that deposits at  
23                  such wholesale financial institution are not fed-  
24                  erally insured or otherwise guaranteed by the  
25                  United States Government.

1           “(2) SPECIAL CAPITAL REQUIREMENTS APPLI-  
2           CABLE TO STATE MEMBER WHOLESALE FINANCIAL  
3           INSTITUTIONS.—

4                   “(A) MINIMUM CAPITAL LEVELS.—

5                           “(i) IN GENERAL.—The Board shall,  
6                           by regulation, adopt capital requirements  
7                           for State member wholesale financial insti-  
8                           tutions—

9                                   “(I) to account for the status of  
10                                   State member wholesale financial in-  
11                                   stitutions as institutions that accept  
12                                   deposits that are not insured under  
13                                   the Federal Deposit Insurance Act;  
14                                   and

15                                   “(II) to provide for the safe and  
16                                   sound operation of the State member  
17                                   wholesale financial institution without  
18                                   undue risk to creditors or other per-  
19                                   sons, including Federal reserve banks,  
20                                   engaged in transactions with such in-  
21                                   stitution.

22                                   “(ii) MINIMUM TIER 1 CAPITAL  
23                                   RATIO.—The minimum ratio of tier 1 cap-  
24                                   ital to total risk-weighted assets of State  
25                                   member wholesale financial institutions

1           shall be not less than the level required for  
2           a State member insured bank to be well  
3           capitalized unless the Board determines  
4           otherwise, consistent with safety and  
5           soundness.

6           “(B) CAPITAL CATEGORIES FOR PROMPT  
7           CORRECTIVE ACTION.—For purposes of apply-  
8           ing section 38 of the Federal Deposit Insurance  
9           Act with respect to any wholesale financial in-  
10          stitution, the Board shall, by regulation, estab-  
11          lish, for each relevant capital measure specified  
12          by the Board under subparagraph (A), the lev-  
13          els at which a State member wholesale financial  
14          institution is well capitalized, adequately cap-  
15          italized, undercapitalized, significantly under-  
16          capitalized, and critically undercapitalized.

17          “(3) ADDITIONAL REQUIREMENTS APPLICABLE  
18          TO STATE MEMBER WHOLESALE FINANCIAL INSTI-  
19          TUTIONS.—In addition to any requirement otherwise  
20          applicable to State member banks or applicable,  
21          under this section, to State member wholesale finan-  
22          cial institutions, the Board may prescribe, by regula-  
23          tion or order, for State member wholesale financial  
24          institutions—

1           “(A) limitations on transaction with affili-  
2           ates to prevent an affiliate from gaining access  
3           to, or the benefits of, credit from a Federal re-  
4           serve bank, including overdrafts at a Federal  
5           reserve bank;

6           “(B) special clearing balance requirements;  
7           and

8           “(C) any additional requirements that the  
9           Board determines to be appropriate or nec-  
10          essary to—

11               “(i) promote the safety and soundness  
12               of the wholesale financial institution, or

13               “(ii) protect creditors and other per-  
14               sons, including Federal reserve banks, en-  
15               gaged in transactions with the State mem-  
16               ber wholesale financial institution.

17           “(4) EXEMPTIONS FOR STATE MEMBER WHOLE-  
18           SALE FINANCIAL INSTITUTIONS.—The Board may,  
19           by regulation or order, exempt any State member  
20           wholesale financial institution from any provision ap-  
21           plicable to a State member bank that is not a State  
22           member wholesale financial institution, if the Board  
23           finds that such exemption is not inconsistent with—

1           “(A) the promotion of the safety and  
2           soundness of the State member wholesale finan-  
3           cial institution; and

4           “(B) the protection of creditors and other  
5           persons, including Federal reserve banks, en-  
6           gaged in transactions with the State member  
7           wholesale financial institution.

8           “(5) NO EFFECT ON OTHER PROVISIONS.—This  
9           section shall not be construed as limiting the  
10          Board’s authority over member banks under any  
11          other provision of law, or to create any obligation for  
12          any Federal reserve bank to make, increase, renew,  
13          or extend any advances or discount under this Act  
14          to any member bank or other depository institution.

15          “(d) CONSERVATORSHIP AUTHORITY.—

16               “(1) IN GENERAL.—The Board may appoint a  
17          conservator to take possession and control of a State  
18          member wholesale financial institution to the same  
19          extent and in the same manner as the Comptroller  
20          of the Currency may appoint a conservator for a na-  
21          tional bank under section 203 of the Bank Con-  
22          servator Act, and the conservator shall exercise the  
23          same powers, functions, and duties, subject to the  
24          same limitations, as are provided under such Act for  
25          conservators of national banks.

1           “(2) BOARD AUTHORITY.—The Board shall  
 2           have the same authority with respect to any con-  
 3           servator appointed under paragraph (1) and the  
 4           State member wholesale financial institution for  
 5           which such conservator has been appointed as the  
 6           Comptroller of the Currency has under the Bank  
 7           Conservation Act with respect to a conservator ap-  
 8           pointed under such Act and a national bank for  
 9           which the conservator has been appointed.

10          “(e) DEFINITIONS.—For purposes of this section, the  
 11         following definitions shall apply:

12                 “(1) STATE MEMBER WHOLESALE FINANCIAL  
 13                 INSTITUTION.—The term ‘State member wholesale  
 14                 financial institution’ means a bank whose application  
 15                 to become a State member wholesale financial insti-  
 16                 tution and a State member bank has been approved  
 17                 by the Board under this section.

18                 “(2) DEPOSIT.—The term ‘deposit’ has the  
 19                 meaning given to such term by the Board under this  
 20                 Act.

21                 “(3) STATE MEMBER INSURED BANK.—The  
 22                 term ‘State member insured bank’ means a State  
 23                 member bank which is an insured bank (as defined  
 24                 in section 3(h) of the Federal Deposit Insurance  
 25                 Act).

1 “(f) EXCLUSIVE JURISDICTION.—Subsections (c) and  
 2 (e) of section 43 of the Federal Deposit Insurance Act  
 3 shall not apply to any State member wholesale financial  
 4 institution.”.

5 **SEC. 403. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
 6 **ANCE ACT.**

7 (a) VOLUNTARY TERMINATION OF INSURED STATUS  
 8 BY CERTAIN INSTITUTIONS.—

9 (1) SECTION 8 DESIGNATIONS.—Section 8(a) of  
 10 the Federal Deposit Insurance Act (12 U.S.C.  
 11 1818(a)) is amended—

12 (A) by striking paragraph (1); and

13 (B) by redesignating paragraphs (2)  
 14 through (9) as paragraphs (1) through (8), re-  
 15 spectively.

16 (2) VOLUNTARY TERMINATION OF INSURED  
 17 STATUS.—The Federal Deposit Insurance Act (12  
 18 U.S.C. 1811 et seq.) is amended by inserting after  
 19 section 8 the following new section:

20 **“SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS IN-**  
 21 **SURED DEPOSITORY INSTITUTION.**

22 “(a) IN GENERAL.—Except as provided in subsection  
 23 (b), an insured State bank or a national bank may volun-  
 24 tarily terminate such bank’s status as an insured deposi-

1 tory institution in accordance with regulations of the Cor-  
2 poration if—

3 “(1) the bank provides written notice of the  
4 bank’s intent to terminate such insured status—

5 “(A) to the Corporation and either the  
6 Board of Governors of the Federal Reserve Sys-  
7 tem (in the case of a State member bank) or  
8 the Comptroller of the Currency (in the case of  
9 a national bank) not less than 6 months before  
10 the effective date of such termination; and

11 “(B) to all depositors at such bank, not  
12 less than 6 months before the effective date of  
13 the termination of such status; and

14 “(2) either—

15 “(A) the deposit insurance fund of which  
16 such bank is a member equals or exceeds the  
17 fund’s designated reserve ratio as of the date  
18 the bank provides a written notice under para-  
19 graph (1) and the Corporation determines that  
20 the fund will equal or exceed the applicable des-  
21 ignated reserve ratio for the 2 semiannual as-  
22 sessment periods immediately following such  
23 date; or

24 “(B) the Corporation and the Board of  
25 Governors of the Federal Reserve System (in

1 the case of a State member bank) or the Comp-  
2 troller of the Currency (in the case of a na-  
3 tional bank) approve the termination of the  
4 bank's insured status and the bank pays an exit  
5 fee in accordance with subsection (e).

6 “(b) EXCEPTION.—Subsection (a) shall not apply  
7 with respect to—

8 “(1) an insured savings association;

9 “(2) an insured branch that is required to be  
10 insured under subsection (a) or (b) of section 6 of  
11 the International Banking Act of 1978; or

12 “(3) any institution described in section 2(c)(2)  
13 of the Bank Holding Company Act of 1956.

14 “(c) ELIGIBILITY FOR INSURANCE TERMINATED.—  
15 Any bank that voluntarily elects to terminate the bank's  
16 insured status under subsection (a) shall not be eligible  
17 for insurance on any deposits or any assistance authorized  
18 under this Act after the period specified in subsection  
19 (f)(1).

20 “(d) INSTITUTION MUST BECOME WHOLESALE FI-  
21 NANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING  
22 ACTIVITIES.—Any depository institution which voluntarily  
23 terminates such institution's status as an insured deposi-  
24 tory institution under this section may not, upon termi-  
25 nation of insurance, accept any deposits unless the institu-

tion is either a State member wholesale financial institution under section 9B of the Federal Reserve Act, or a national wholesale financial institution under section 5136B of the Revised Statutes of the United States.

“(e) EXIT FEES.—

“(1) IN GENERAL.—Any bank that voluntarily terminates such bank’s status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution’s pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund’s designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

“(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

“(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

“(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank’s insured status, less all subsequent withdrawals from any deposits of such deposi-

1 tor, shall continue to be insured for a period of not  
2 less than 6 months and not more than 2 years, as  
3 determined by the Corporation. During such period,  
4 no additions to any such deposits, and no new de-  
5 posits in the depository institution made after the ef-  
6 fective date of such termination shall be insured by  
7 the Corporation.

8 “(2) TEMPORARY ASSESSMENTS; OBLIGATIONS  
9 AND DUTIES.—During the period specified in para-  
10 graph (1) with respect to any bank, the bank shall  
11 continue to pay assessments under section 7 as if  
12 the bank were an insured depository institution. The  
13 bank shall, in all other respects, be subject to the  
14 authority of the Corporation and the duties and obli-  
15 gations of an insured depository institution under  
16 this Act during such period, and in the event that  
17 the bank is closed due to an inability to meet the de-  
18 mands of the bank’s depositors during such period,  
19 the Corporation shall have the same powers and  
20 rights with respect to such bank as in the case of  
21 an insured depository institution.

22 “(g) ADVERTISEMENTS.—

23 “(1) IN GENERAL.—A bank that voluntarily  
24 terminates the bank’s insured status under this sec-  
25 tion shall not advertise or hold itself out as having

1 insured deposits, except that the bank may advertise  
2 the temporary insurance of deposits under sub-  
3 section (f) if, in connection with any such advertise-  
4 ment, the advertisement also states with equal prom-  
5 inence that additions to deposits and new deposits  
6 made after the effective date of the termination are  
7 not insured.

8 “(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS,  
9 AND SECURITIES.—Any certificate of deposit or  
10 other obligation or security issued by a State bank  
11 or a national bank after the effective date of the vol-  
12 untary termination of the bank’s insured status  
13 under this section shall be accompanied by a con-  
14 spicuous, prominently displayed notice that such cer-  
15 tificate of deposit or other obligation or security is  
16 not insured under this Act.

17 “(h) NOTICE REQUIREMENTS.—

18 “(1) NOTICE TO THE CORPORATION.—The no-  
19 tice required under subsection (a)(1)(A) shall be in  
20 such form as the Corporation may require.

21 “(2) NOTICE TO DEPOSITORS.—The notice re-  
22 quired under subsection (a)(1)(B) shall be—

23 “(A) sent to each depositor’s last address  
24 of record with the bank; and

1                   “(B) in such manner and form as the Cor-  
2                   poration finds to be necessary and appropriate  
3                   for the protection of depositors.”.

4           (b) DEFINITION.—Section 19(b)(1)(A)(i) of the Fed-  
5   eral Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended  
6   after “such Act” by inserting “, or any State member  
7   wholesale financial institution as defined in section 9B of  
8   this Act or any national wholesale financial institution as  
9   defined in section 5136B of the Revised Statutes of the  
10   United States”.

11          (c) REPORTS ON DISCOUNTS AND ADVANCES TO  
12   WHOLESALE FINANCIAL INSTITUTIONS.—Section 10B of  
13   the Federal Reserve Act (12 U.S.C. 347(b)) is amended  
14   by adding at the end the following new subsection:

15          “(c) REPORTS ON DISCOUNTS AND ADVANCES TO  
16   WHOLESALE FINANCIAL INSTITUTIONS.—

17               “(1) IN GENERAL.—The Board shall submit a  
18               report to the Congress at the end of any year in  
19               which any State member wholesale financial institu-  
20               tion or national wholesale financial institution (as  
21               defined in section 5136B of the Revised Statutes of  
22               the United States) has obtained a discount, advance,  
23               or other extension of credit from a Federal reserve  
24               bank.

1           “(2) CONTENTS.—Any report submitted under  
 2           paragraph (1) shall explain the circumstances and  
 3           need for any discount, advance, or other extension of  
 4           credit to a wholesale financial institution during the  
 5           period covered by the report, including the type and  
 6           amount of credit extended and the amount of credit  
 7           remaining outstanding as of the date of the report.”.

8   **TITLE V—MERGER OF BANK AND THRIFT**  
 9       **CHARTERS, REGULATORS, AND INSUR-**  
 10      **ANCE FUNDS**

11   **Subtitle A—Conversion of Thrift Charters**

12   **SEC. 501. SHORT TITLE.**

13           This title may be cited as the Thrift Charter Conver-  
 14   sion Act of 1996.

15   **SEC. 502. TERMINATION OF FEDERAL SAVINGS ASSOCIA-**  
 16                   **TIONS; TREATMENT OF STATE SAVINGS ASSO-**  
 17                   **CIATIONS AS BANKS FOR PURPOSES OF FED-**  
 18                   **ERAL BANKING LAW.**

19           (a) TERMINATION OF FEDERAL SAVINGS ASSOCIA-  
 20   TION CHARTERS.—

21                   (1) IN GENERAL.—Each Federal savings asso-  
 22   ciation shall—

23                           (A) convert to a national bank charter;

24                           (B) convert to a State depository institu-  
 25   tion charter; or

1 (C) surrender the charter of such savings  
2 association and liquidate the institution.

3 (2) CONVERSION TO NATIONAL BANK BY OPER-  
4 ATION OF LAW.—If any Federal savings association  
5 has not taken any action required under paragraph  
6 (1) as of January 1, 1998, the savings association  
7 shall—

8 (A) become a national bank on such date  
9 by operation of law;

10 (B) immediately file articles of association  
11 and an organizational certificate with the  
12 Comptroller of the Currency in accordance with  
13 sections 5133, 5134, and 5135 of the Revised  
14 Statutes of the United States; and

15 (C) cease to exist as a Federal savings as-  
16 sociation as of such date.

17 (3) PROHIBITION ON NEW CHARTERS OF FED-  
18 ERAL SAVINGS ASSOCIATIONS.—The Director of the  
19 Office of Thrift Supervision may not grant any char-  
20 ter for a Federal savings association for which an  
21 application was received after the date of the enact-  
22 ment of this Act.

23 (b) TREATMENT OF STATE SAVINGS ASSOCIATIONS  
24 AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.—

1           (1) AMENDMENTS TO FEDERAL DEPOSIT IN-  
2       SURANCE ACT.—Section 3 of the Federal Deposit  
3       Insurance Act (12 U.S.C. 1813) is amended—

4           (A) by striking paragraph (2) of subsection  
5       (a) and inserting the following new paragraph:  
6       “(2) STATE BANK.—

7           “(A) IN GENERAL.—The term ‘State bank’  
8       means any bank, banking association, trust  
9       company, savings bank, industrial bank (or  
10      similar depository institution which the Board  
11      of Directors finds to be operating substantially  
12      in the same manner as an industrial bank),  
13      building and loan association, savings and loan  
14      association, homestead association, cooperative  
15      bank, or other banking institution—

16           “(i) which is engaged in the business  
17      of receiving deposits, other than trust  
18      funds (as defined in this section); and

19           “(ii) which—

20           “(I) is incorporated under the  
21      laws of any State;

22           “(II) is organized and operating  
23      according to the laws of the State in  
24      which such institution is chartered or  
25      organized; or

1 “(III) is operating under the  
2 Code of Law for the District of Co-  
3 lumbia (except a national bank).

4 “(B) CERTAIN INSURED BANKS IN-  
5 CLUDED.—The term ‘State bank’ includes a co-  
6 operative bank or other unincorporated bank  
7 the deposits of which were insured by the Cor-  
8 poration on the day before the date of the en-  
9 actment of the Financial Institutions Reform  
10 Recovery, and Enforcement Act of 1989.

11 “(C) CERTAIN UNINSURED BANKS EX-  
12 CLUDED.—The term ‘State bank’ does not in-  
13 clude any cooperative bank or other unincor-  
14 porated bank the deposits of which were not in-  
15 sured by the Corporation on the day before the  
16 date of the enactment of the Financial Institu-  
17 tions Reform, Recovery, and Enforcement Act  
18 of 1989.”; and

19 (B) in subsection (q)—

20 (i) by inserting “and” after the semi-  
21 colon at the end of paragraph (2);

22 (ii) by striking “; and” at the end of  
23 paragraph (3) and inserting a period; and

24 (iii) by striking paragraph (4).

1           (2) AMENDMENTS TO THE BANK HOLDING  
2           COMPANY ACT OF 1956.—Section 2 of the Bank  
3           Holding Company Act of 1956 (12 U.S.C. 1841) is  
4           amended—

5                   (A) by striking subparagraph (E) of sub-  
6                   section (a)(5); and

7                   (B) by striking subparagraphs (B) and (J)  
8                   of subsection (c)(2).

9           (3) AMENDMENTS TO THE FEDERAL RESERVE  
10          ACT.—The 2d and 3d paragraphs of the 1st section  
11          of the Federal Reserve Act (12 U.S.C. 221) are each  
12          amended by inserting “(as defined in section 3(a)(2)  
13          of the Federal Deposit Insurance Act)” after “State  
14          bank”.

15          (c) COMPARABILITY OF REGULATION FOR STATE-  
16          CHARTERED DEPOSITORY INSTITUTIONS.—

17               (1) REVIEW OF STATE SUPERVISION.—The  
18          Corporation shall maintain procedures for reviewing,  
19          under standards the Board of Directors shall pre-  
20          scribe in regulations, the manner in which State de-  
21          pository institutions are regulated by a State for the  
22          purpose of ensuring that State savings associations  
23          are no less rigorously regulated by a State than  
24          State banks.

1           (2) INADEQUATE STATE REGULATIONS.—If, in  
2           connection with a review of State regulation of State  
3           depository institutions pursuant to paragraph (2),  
4           the Corporation determines that a State regulates  
5           savings associations chartered by such State less rig-  
6           orously than the State regulates banks chartered by  
7           such State, the Corporation may take such action  
8           under section 8(a) of the Federal Deposit Insurance  
9           Act as the Corporation determines to be appropriate  
10          which shall be effective no later than the end of the  
11          1-year period beginning on the date of such deter-  
12          mination.

13          (3) DEFINITIONS.—The following definitions  
14          shall apply for purposes of this subsection:

15                (A) STATE BANK.—The term “State  
16                bank” has the same meaning as in section  
17                3(a)(2) of the Federal Deposit Insurance Act  
18                (as in effect on the date of the enactment of the  
19                Thrift Charter Conversion Act of 1996).

20                (B) STATE SAVINGS ASSOCIATION.—The  
21                term “State savings association” has the same  
22                meaning as in section 3(b)(2) of the Federal  
23                Deposit Insurance Act (as in effect on the date  
24                of the enactment of the Thrift Charter Conver-  
25                sion Act of 1996).

1 (C) STATE DEPOSITORY INSTITUTION.—

2 The term “State depository institution” has the  
3 same meaning as in section 3(c)(5) of the Fed-  
4 eral Deposit Insurance Act.

5 **SEC. 503. TREATMENT OF CERTAIN ACTIVITIES AND AFFILI-**  
6 **ATIONS OF BANK HOLDING COMPANIES RE-**  
7 **SULTING FROM THIS ACT.**

8 Section 4 of the Bank Holding Company Act of 1956  
9 (12 U.S.C. 1843) is amended by adding at the end the  
10 following new subsection:

11 “(k) TREATMENT OF COMPANIES RESULTING FROM  
12 SAVINGS AND LOAN HOLDING COMPANIES.—

13 “(1) IN GENERAL.—Notwithstanding any other  
14 provision of this section (other than paragraph (5))  
15 or any other provision of Federal law including sec-  
16 tions 20 and 32 of the Banking Act of 1933, a  
17 qualified bank holding company may, after such  
18 company becomes a bank holding company—

19 “(A) maintain or enter into any non-bank-  
20 ing affiliation which such company was author-  
21 ized to maintain or enter into as of September  
22 22, 1995, or was authorized to maintain follow-  
23 ing a merger of insured depository institution  
24 subsidiaries pursuant to an application filed no  
25 later than such date; and

1           “(B) engage, directly or through any affili-  
2           ate described in subparagraph (A) which is not  
3           a bank, in any activity in which such company  
4           or any affiliate described in subparagraph (A)  
5           was authorized to engage as of September 22,  
6           1995, or in which such company was authorized  
7           to engage following a merger of insured deposi-  
8           tory institution subsidiaries pursuant to an ap-  
9           plication filed no later than such date, if the re-  
10          quirements of paragraph (4) are met.

11          “(2) QUALIFIED BANK HOLDING COMPANY DE-  
12          FINED.—For purposes of this subsection, the term  
13          ‘qualified bank holding company’ means—

14               “(A) any company—

15                   “(i) which—

16                       “(I) as of September 13, 1995, is  
17                       a savings and loan holding company;  
18                       or

19                       “(II) as of September 30, 1995,  
20                       has filed an application to charter a  
21                       de novo Federal savings association  
22                       and thereafter becomes a savings and  
23                       loan holding company by virtue of the  
24                       establishment of such savings associa-  
25                       tion; and

1           “(ii) which as of the dates referred to  
2           in subclause (I) or (II), as the case may  
3           be, is not a bank holding company and be-  
4           comes a bank holding company after such  
5           date, or any subsidiary of such company;  
6           and

7           “(B) any bank holding company which as  
8           of September 13, 1995—

9           “(i) is a savings and loan holding  
10          company; and

11          “(ii) is exempt from this section pur-  
12          suant to an order issued by the Board  
13          under subsection (d).

14          “(3) NO LOSS OF SUBSECTION (d) EXEMP-  
15          TION.—No qualified bank holding company de-  
16          scribed in paragraph (2)(B) shall lose the grounds  
17          for the exemption under subsection (d) because a  
18          savings association which such company controlled,  
19          directly or indirectly, as of September 13, 1995, be-  
20          comes a bank after such date so long as such bank  
21          continues to meet the requirements of subpara-  
22          graphs (A) and (B) of paragraph (4).

23          “(4) PREREQUISITES FOR CONTINUATION OF  
24          GRANDFATHERED ACTIVITIES AND AFFILIATIONS.—

25          This subsection shall cease to apply with respect to

1 a qualified bank holding company if, at any time  
2 after such company first meets the definition of a  
3 qualified bank holding company—

4 “(A) any insured depository institution  
5 controlled by such company which, as of the  
6 day before the company first meets the defini-  
7 tion of a qualified bank holding company—

8 “(i) was subject to the requirements  
9 contained in section 10(m) of the Home  
10 Owners’ Loan Act, as in effect on such  
11 date, (and regulations in effect on such  
12 date under such section) for treatment as  
13 a qualified thrift lender under such section;  
14 and

15 “(ii) was not a savings association de-  
16 scribed in section 10(m)(3)(F) of such Act,  
17 as in effect on such date,  
18 fails to meet any requirement of such section;

19 “(B) any insured depository institution  
20 controlled by such company fails to comply with  
21 any limitation or restriction on the type of  
22 amounts of loans or investments of the institu-  
23 tion to which such institution was subject as of  
24 the date of the enactment of the Thrift Charter  
25 Conversion Act of 1996, other than any limita-

tion relating to qualified thrift investments under section 10(m) of the Home Owners' Loan Act, as in effect on such date;

“(C) the company or any subsidiary of the company acquires more than 5 percent of the shares or assets of any bank or any savings association (as such term is defined in section 3 of the Federal Deposit Insurance Act, as in effect on the date of the enactment of the Thrift Charter Conversion Act of 1996) after September 13, 1995.

“(5) NONTRANSFERABLE.—This subsection shall not apply with respect to any qualified bank holding company if, after September 13, 1995—

“(A) any person not under common control with such company acquires, directly or indirectly, control of the company; or

“(B) the company is the subject of any merger, consolidation, or other similar transaction as a result of which a person not under common control with such company acquires, directly or indirectly, control of such company.

“(6) PROHIBITION ON CERTAIN INSURED DEPOSITORY INSTITUTIONS IDENTIFYING THEMSELVES AS NATIONAL BANKS.—

1           “(A) IN GENERAL.—Notwithstanding the  
2           requirement of section 5134 of the Revised  
3           Statutes of the United States—

4                   “(i) the name of an insured depository  
5           institution subsidiary of a qualified bank  
6           holding company which—

7                           “(I) as of the date of the enact-  
8                   ment of the Thrift Charter Conversion  
9                   Act of 1996, is a savings and loan  
10                  holding company described in section  
11                  10(c)(3) of the Home Owners’ Loan  
12                  Act (as in effect on such date); and

13                           “(II) is subject to the restrictions  
14                  contained in paragraph (4),

15                  may not include the term “national”; and

16                           “(ii) such insured depository institu-  
17                  tion may not be identified as a national  
18                  bank on any sign displayed by the institu-  
19                  tion or in any advertisement or other pub-  
20                  lication of the institution.

21           “(B) DEPOSITORY INSTITUTION NOT LIA-  
22           BLE FOR FRAUDULENT MISREPRESENTATION  
23           FOR NOT REPRESENTING ITSELF AS A NA-  
24           TIONAL BANK.—An insured depository institu-  
25           tion which is subject to subparagraph (A) shall

1 not be liable for any civil or criminal penalty  
 2 under any Federal or State consumer protection  
 3 law, or in any criminal or civil action, for fraud-  
 4 ulently misrepresenting the nature of the char-  
 5 ter of the institution, for falsely advertising the  
 6 status of the institution, for making a false  
 7 statement with respect to the status of the in-  
 8 stitution, or for any similar offense by reason of  
 9 the institution's compliance with such subpara-  
 10 graph.

11 “(7) ENFORCEMENT.—In addition to any other  
 12 power of the Board, the Board may enforce compli-  
 13 ance with the provisions of this subsection with re-  
 14 spect to any qualified bank holding company and  
 15 any bank controlled by such company under section  
 16 8 of the Federal Deposit Insurance Act.”.

17 **SEC. 504. TRANSITION PROVISIONS FOR ACTIVITIES OF**  
 18 **SAVINGS ASSOCIATIONS WHICH CONVERT**  
 19 **INTO OR BECOME TREATED AS BANKS.**

20 (a) IN GENERAL.—Notwithstanding any other provi-  
 21 sion of Federal law, any insured depository institution  
 22 which, as of September 13, 1995, is a savings association  
 23 (as defined in section 3(b) of the Federal Depository In-  
 24 surance Act (as in effect on such date)) and after such  
 25 date converts to a national or State bank charter or be-

1 comes treated as a State bank pursuant to the amendment  
 2 made by section 502(b), may continue to engage, directly  
 3 or indirectly, in any activity in which such institution was  
 4 lawfully engaged as of such date during the 2-year period  
 5 beginning on the effective date of such conversion or the  
 6 effective date of such amendments, as the case may be.

7 (b) TWO 1-YEAR EXTENSIONS AUTHORIZED.—The  
 8 2-year period described in subsection (a) with respect to  
 9 any insured depository institution may be extended for  
 10 such institution not to exceed two additional times for not  
 11 more than 1 year each time if the appropriate Federal  
 12 banking agency determines that such extension is nec-  
 13 essary to avert substantial loss to the institution and is  
 14 otherwise consistent with the safety and soundness of the  
 15 institution.

16 **SEC. 505. REGISTRATION OF BANK HOLDING COMPANIES**  
 17 **RESULTING FROM CONVERSIONS OF SAV-**  
 18 **INGS ASSOCIATIONS TO BANKS OR TREAT-**  
 19 **MENT OF SAVINGS ASSOCIATIONS AS BANKS.**

20 Section 3 of the Bank Holding Company Act of 1956  
 21 (12 U.S.C. 1842) is amended by adding at the end the  
 22 following new subsections:

23 “(h) REGISTRATION OF CERTAIN BANK HOLDING  
 24 COMPANIES.—A company which, as of September 13,  
 25 1995, is a savings and loan holding company (as defined

1 in section 10(a)(1)(D) of the Home Owners' Loan Act,  
2 as in effect on such date) and is not a bank holding com-  
3 pany shall not be required to obtain the approval of the  
4 Board under subsection (a) to become a bank holding com-  
5 pany after September 13, 1995, as a result of the conver-  
6 sion of any insured depository institution subsidiary of  
7 such company into a bank or by virtue of the treatment  
8 of any insured depository institution subsidiary of such  
9 company as a bank pursuant to the amendments made  
10 by the Thrift Charter Conversion Act of 1996, if such  
11 company—

12           “(1) registers as a bank holding company with  
13           the Board in accordance with section 5(a); and

14           “(2) does not acquire, directly or indirectly,  
15           ownership or control of any additional insured de-  
16           pository institution or other company in connection  
17           with such conversion or treatment.

18           “(i) REGULATION OF QUALIFIED BANK HOLDING  
19 COMPANIES.—The Board shall regulate qualified bank  
20 holding companies (as defined in section 4(k)(2)) in a  
21 manner consistent with—

22           “(1) the regulation of such companies by the  
23           Director of the Office of Thrift Supervision before  
24           the date of the enactment of the Thrift Charter Con-  
25           version Act of 1996; and

1           “(2) the safety and soundness of insured depos-  
2           itory institution subsidiaries of such companies.”.

3   **SEC. 506. ADDITIONAL TRANSITION PROVISIONS AND SPE-**  
4                           **CIAL RULES.**

5           (a) MUTUAL NATIONAL BANKS AUTHORIZED; CON-  
6   VERSION OF MUTUAL SAVINGS ASSOCIATIONS INTO NA-  
7   TIONAL BANKS.—

8           (1) IN GENERAL.—Chapter one of title LXII of  
9           the Revised Statutes of the United States (12  
10          U.S.C. 21 et seq.) is amended by inserting after sec-  
11          tion 5133 the following new section:

12   **“SEC. 5133A. MUTUAL NATIONAL BANKS.**

13          “(a) IN GENERAL.—Notwithstanding the paragraph  
14          designated the “Third” of section 5134, the Comptroller  
15          of the Currency may charter national banks organized in  
16          the mutual form either de novo or through a conversion  
17          of any stock national or State bank (as defined in section  
18          3 of the Federal Deposit Insurance Act) or any State mu-  
19          tual bank or credit union, subject to regulations prescribed  
20          by the Comptroller of the Currency in accordance with this  
21          section.

22          “(b) REGULATIONS.—

23                 “(1) TRANSITION RULES.—National banks or-  
24          ganized in the mutual form shall be subject to the  
25          regulations of the Director of the Office of Thrift

1 Supervision governing corporate organization, gov-  
2 ernance, and conversion of mutual institutions, as in  
3 effect on September 13, 1995, including parts 543,  
4 544, 546, 563b, and 563c) of chapter V of title 12  
5 of the Code of Federal Regulations (as in effect on  
6 such date), during the 3-year period beginning on  
7 the date of the enactment of the Thrift Charter Con-  
8 version Act of 1996.

9 “(2) REGULATIONS OF THE COMPTROLLER.—  
10 The Comptroller of the Currency shall prescribe ap-  
11 propriate regulations for national banks organized in  
12 the mutual form, effective as of the end of the 3-  
13 year period referred to in paragraph (1).

14 “(3) APPLICABILITY OF CAPITAL STOCK RE-  
15 QUIREMENTS.—The Comptroller of the Currency  
16 shall prescribe regulations regarding the manner in  
17 which requirements of title LXII of the Revised  
18 Statutes of the United States with respect to capital  
19 stock, and limitations imposed on national banks  
20 under such title based on capital stock, shall apply  
21 to national banks organized in mutual form pursu-  
22 ant to subsection (a).

23 “(c) CONVERSIONS.—

24 “(1) CONVERSION TO STOCK NATIONAL  
25 BANK.—Subject to such regulations as the Comp-

troller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any national bank which is organized in mutual form pursuant to paragraph (1) may reorganize as a stock national bank.

“(2) CONVERSIONS TO STATE BANKS.—Any national mutual bank may convert to a State bank charter in accordance with regulations prescribed by the Comptroller of the Currency and applicable State law.”.

(2) MUTUAL BANK HOLDING COMPANIES.—Subsection (g) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)) is amended to read as follows:

“(g) MUTUAL BANK HOLDING COMPANIES.—

“(1) IN GENERAL.—A national mutual bank may reorganize so as to become a holding company by—

“(A) chartering an interim national bank, the stock of which is to be wholly owned, except as otherwise provided in this section by the national mutual bank; and

“(B) transferring the substantial part of the national mutual bank's assets and liabil-

1           ities, inclding all of the bank’s insured liabil-  
2           ities, to the interim national bank.

3           “(2) DIRECTORS AND CERTAIN ACCOUNT HOLD-  
4           ERS” APPROVAL OF PLAN REQUIRED.—A reorga-  
5           nization is not authorized under this subsection un-  
6           less—

7                   “(A) a plan providing for such reorganiza-  
8                   tion has been approved by a majority of the  
9                   board of directors of the national mutual bank;  
10                  and

11                   “(B) in the case of a national mutual bank  
12                   in which holders of accounts and obligers exer-  
13                   cise voting rights, such plan has been submitted  
14                   to an approved by a majority of such individ-  
15                   uals at a meeting held at the call of the direc-  
16                   tors in accordance with the procedures pre-  
17                   scribed by the bank’s charter and bylaws.

18           “(3) NOTICE TO THE BOARD; DISAPPROVAL PE-  
19           RIOD.—

20                   “(A) NOTICE REQUIRED.—

21                   “(i) IN GENERAL.—At least 60 days  
22                   before taking any action described in para-  
23                   graph (1), a national mutual bank seeking  
24                   to establish a mutual holding company  
25                   shall provide written notice to the Board.

1                   “(ii) CONTENTS OF NOTICE.—The no-  
2                   tice shall contain such relevant information  
3                   as the Board shall require by regulation or  
4                   by specific request in connection with any  
5                   particular notice.

6                   “(B) TRANSACTION ALLOWED IF NOT DIS-  
7                   APPROVED.—Unless the Board within such 60-  
8                   day notice period disapproves the proposed  
9                   holding company formation, or extends for an-  
10                  other 30 days the period during which such dis-  
11                  approval may be issued, the national mutual  
12                  bank providing such notice may proceed with  
13                  the transaction, if the requirements of para-  
14                  graph (2) have been met.

15                  “(C) GROUNDS FOR DISAPPROVAL.—The  
16                  Board may disapprove any proposed holding  
17                  company formation only if—

18                         “(i) such disapproval is necessary to  
19                         prevent unsafe or unsound practices;

20                         “(ii) the financial or management re-  
21                         sources of the national mutual bank in-  
22                         volved warrant disapproval;

23                         “(iii) the national mutual bank fails  
24                         to furnish the information required under  
25                         subparagraph (A); or

1                   “(iv) the national mutual bank fails to  
2                   comply with the requirement of paragraph  
3                   (2).

4                   “(D) RETENTION OF CAPITAL ASSETS.—In  
5                   connection with the transaction described in  
6                   paragraph (1), a national mutual bank may,  
7                   subject to the approval of the Board, retain  
8                   capital assets at the holding company level to  
9                   the extent that the capital retained at the hold-  
10                  ing company is in excess of the amount of cap-  
11                  ital required in order for the interim national  
12                  bank to meet all relevant capital standards es-  
13                  tablished by the Comptroller of the Currency  
14                  for national banks.

15                  “(4) OWNERSHIP.—

16                  “(A) IN GENERAL.—Persons having own-  
17                  ership rights in the national mutual bank under  
18                  section 5133A of the Revised Statutes of the  
19                  United States (including paragraph 575.5 of  
20                  chapter V of title 12 of the Code of Federal  
21                  Regulations, as in effect on September 13,  
22                  1995, and applicable to national mutual banks  
23                  pursuant to such section) or State law shall  
24                  have the same ownership rights with respect to  
25                  the mutual holding company.

1           “(B) HOLDERS OF CERTAIN ACCOUNTS.—  
2           Holders of savings, demand, or other accounts  
3           of—

4                   “(i) a national bank chartered as part  
5                   of a transaction described in paragraph  
6                   (1); or

7                   “(ii) a mutual bank acquired pursuant  
8                   to paragraph (5)(B),  
9           shall have the same ownership rights with re-  
10          spect to the mutual holding company as persons  
11          described in subparagraph (A) of this para-  
12          graph.

13          “(5) PERMITTED ACTIVITIES.—A mutual hold-  
14          ing company may engage only in the following activi-  
15          ties:

16                   “(A) Investing in the stock of a national or  
17                   State bank.

18                   “(B) Acquiring a mutual bank through the  
19                   merger of such bank into a national bank sub-  
20                   sidiary of such holding company or an interim  
21                   national bank subsidiary of such holding com-  
22                   pany.

23                   “(C) Subject to paragraph (6), merging  
24                   with or acquiring another holding company, one  
25                   of whose subsidiaries is a national mutual bank.

1           “(D) Investing in a corporation the capital  
2           stock of which is available for purchase by a na-  
3           tional mutual bank under Federal law or under  
4           the law of any State where the home office of  
5           any subsidiary bank is located.

6           “(E) Engaging in the activities permitted  
7           under section 4(c).

8           “(6) LIMITATIONS ON CERTAIN ACTIVITIES OF  
9           ACQUIRED HOLDING COMPANIES.—

10           “(A) NEW ACTIVITIES.—If a mutual hold-  
11           ing company acquires or merges with another  
12           holding company under paragraph (5)(C), the  
13           holding company acquired or the holding com-  
14           pany resulting from such merger or acquisition  
15           may only invest in assets and engage in activi-  
16           ties which are authorized under paragraph (5).

17           “(B) GRACE PERIOD FOR DIVESTING PRO-  
18           HIBITED OR DISCONTINUING PROHIBITED AC-  
19           TIVITIES.—Not later than 2 years following a  
20           merger or acquisition described in paragraph  
21           (5)(C), the acquired holding company or the  
22           holding company resulting from such merger or  
23           acquisition shall—

1           “(i) dispose of any asset which is an  
2           asset in which a mutual holding company  
3           may not invest under paragraph (5); and

4           “(ii) cease any activity which is an ac-  
5           tivity in which a mutual holding company  
6           may not engage under paragraph (5).

7           “(7) CHARTERING AND OTHER REQUIRE-  
8           MENTS.—

9           “(A) IN GENERAL.—A mutual holding  
10          company shall be chartered by the Board and  
11          shall be subject to such regulations as the  
12          Board may prescribe.

13          “(B) OTHER REQUIREMENTS.—Unless the  
14          context otherwise required, a mutual holding  
15          company shall be subject to the other require-  
16          ments of this Act regarding regulation of hold-  
17          ing companies.

18          “(8) CAPITAL IMPROVEMENT.—

19          “(A) PLEDGE OF STOCK OF SAVINGS ASSO-  
20          CIATION SUBSIDIARY.—This section shall not  
21          prohibit a mutual holding company from pledg-  
22          ing all or a portion of the stock of a national  
23          bank chartered as part of a transaction de-  
24          scribed in paragraph (1) to raise capital for  
25          such bank.

1 “(B) ISSUANCE OF NONVOTING SHARES.—

2 No provision of this Act shall be construed as  
3 prohibiting a national bank chartered as part of  
4 a transaction described in paragraph (1) from  
5 issuing any nonvoting shares or less than 50  
6 percent of the voting shares of such bank to  
7 any person other than the mutual holding com-  
8 pany.

9 “(9) INSOLVENCY AND LIQUIDATION.—

10 “(A) IN GENERAL.—Notwithstanding any  
11 provision of law, upon—

12 “(i) the default of any national  
13 bank—

14 “(I) the stock of which is owned  
15 by any mutual holding company; and

16 “(II) which was chartered in a  
17 transaction described in paragraph  
18 (1);

19 “(ii) the default of a mutual holding  
20 company; or

21 “(iii) a foreclosure on a pledge by a  
22 mutual holding company described in para-  
23 graph (8)(A),

24 A trustee shall be appointed receiver of such  
25 mutual holding company and such trustee shall

1 have the authority to liquidate the assets of,  
2 and satisfy the liabilities of, such mutual hold-  
3 ing company pursuant to title 11, United States  
4 Code.

5 “(B) DISTRIBUTION OF NET PROCEEDS.—  
6 Except as provided in subparagraph (C), the  
7 net proceeds of any liquidation of any mutual  
8 holding company pursuant to subparagraph (A)  
9 shall be transferred to persons who hold owner-  
10 ship interests in such mutual holding company.

11 “(C) RECOVERY BY FEDERAL DEPOSIT IN-  
12 SURANCE CORPORATION.—If the Federal De-  
13 posit Insurance Corporation incurs a loss as a  
14 result of the default of any depository institu-  
15 tion subsidiary of a mutual holding company  
16 which is liquidated pursuant to subparagraph  
17 (A), the Federal Deposit Insurance Corporation  
18 shall succeed to the ownership interest of the  
19 depositors of such depository institution in the  
20 mutual holding company, to the extent of the  
21 Federal Deposit Insurance Corporation’s loss.

22 “(10) STATE MUTUAL BANK HOLDING COM-  
23 PANY.—

24 “(A) IN GENERAL.—Notwithstanding any  
25 provision of Federal law, a State bank operat-

1 ing in mutual form may reorganize so as to  
2 form a holding company under State law.

3 “(B) REGULATION OF STATE MUTUAL  
4 HOLDING COMPANY.—A corporation organized  
5 as a holding company in accordance with sub-  
6 paragraph (A) shall be regulated on the same  
7 terms and be subject to the same limitations as  
8 any other holding company which controls a  
9 bank.

10 “(11) REGULATIONS.—

11 “(A) TRANSITION RULES.—Mutual bank  
12 holding companies organized under this sub-  
13 section shall be subject to the regulations of the  
14 Director of the Office of Thrift Supervision gov-  
15 erning corporate organization, governance, and  
16 conversion of mutual institutions, as in effect  
17 on September 13, 1995, including part 575 of  
18 chapter V of title 12 of the Code of Federal  
19 Regulations (as in effect on such date), during  
20 the 3-year period beginning on the date of the  
21 enactment of the Thrift Charter Conversion Act  
22 of 1996.

23 “(B) REGULATIONS OF THE BOARD.—The  
24 Board shall prescribe appropriate regulations  
25 for mutual holding companies, effective at the

1           end of the 3-year period referred to in subpara-  
2           graph (A).

3           “(12) NO CHANGE OF CONTROL.—Any second  
4           stage conversion of a mutual holding company to full  
5           stock form shall not be deemed to be a change of  
6           control if, in connection with such conversion, no  
7           company, directly or indirectly, acquires control of  
8           such mutual holding company or any successor to  
9           such company.

10          “(13) DEFINITIONS.—For purposes of this sub-  
11          section, the following definitions shall apply:

12                 “(A) MUTUAL HOLDING COMPANY.—The  
13                 term ‘mutual holding company’ means a cor-  
14                 poration organized as a holding company under  
15                 this subsection.

16                 “(B) DEFAULT.—The term ‘default’  
17                 means an adjudication or other official deter-  
18                 mination of a court of competent jurisdiction or  
19                 other public authority pursuant to which a con-  
20                 servator, receiver, or other legal custodian is  
21                 appointed.

22                 “(C) NATIONAL MUTUAL BANK.—The term  
23                 ‘national mutual bank’ means a national bank  
24                 organized in mutual form under section 5133A  
25                 of the Revised Statutes of the United States.”.

1           (3) LIMITATION ON FEDERAL REGULATION OF  
2       STATE BANKS.—Except as otherwise provide in Fed-  
3       eral law, the Comptroller of the Currency, Board of  
4       Governors of the Federal Reserve System, and Fed-  
5       eral Deposit Insurance Corporation may not adopt  
6       or enforce any regulation which contravenes the cor-  
7       poration governance rules prescribed by State law or  
8       regulation for State banks unless the Comptroller,  
9       Board, or Corporation finds that such Federal regu-  
10      lation is necessary to assure the safety and sound-  
11      ness of such State banks.

12           (4) CONVERSIONS OF MUTUAL SAVINGS ASSO-  
13      CIATION TO MUTUAL NATIONAL BANKS BY OPER-  
14      ATION OF LAW.—Notwithstanding any other provi-  
15      sion of Federal or State law, any savings association  
16      (as defined in section 3 of the Federal Deposit In-  
17      surance Act (as in effect on September 13, 1995))  
18      which is organized in mutual form as of the date of  
19      the enactment of this Act may become a national  
20      mutual bank by operation of law if the association—

21           (A) files the articles of association and or-  
22           ganization certificate with the Comptroller of  
23           the Currency before January 1, 1998, in ac-  
24           cordance with chapter one of the LXII of the  
25           Revised Statutes of the United States; and

1 (B) provides such other document or infor-  
2 mation as the Comptroller of the Currency may  
3 prescribe in regulations consistent with this sec-  
4 tion and section 5133A of the Revised Statutes  
5 of the United States (as added by paragraph  
6 (1) of this subsection).

7 (b) MEMBERSHIP IN FEDERAL HOME LOAN  
8 BANKS.—Any insured depository institution which—

9 (1) as of the date of the enactment of this Act,  
10 is a Federal savings association which, pursuant to  
11 section 6(e) of the Federal Home Loan Bank Act,  
12 may not voluntarily withdraw from membership in a  
13 federal home loan bank; and

14 (2) after such date converts from a Federal  
15 savings association to a national bank, shall continue  
16 to be subject to the prohibition under such section  
17 on voluntary withdrawal from such membership as  
18 though such bank were still a Federal savings asso-  
19 ciation until the bank ceases to be a national bank.

20 (c) BRANCHES.—

21 (1) IN GENERAL.—Notwithstanding any provi-  
22 sion of the Federal Deposit Insurance Act, the Bank  
23 Holding Company Act of 1956, or any other Federal  
24 or State law, any depository institution which—

1 (A) as of the date of the enactment of this  
2 Act, is a savings association; and

3 (B) becomes a bank before January 1,  
4 1998, or, pursuant to the amendments made by  
5 this subsection, is treated as a bank as of such  
6 date under the Federal Deposit Insurance Act,  
7 and any depository institution or bank holding com-  
8 pany which acquires such depository institution, may  
9 continue, after the depository institution becomes or  
10 commences to be treated as a bank, to operate any  
11 branch or agency which the savings association was  
12 operating as a branch or agency or was in the proc-  
13 ess of establishing as a branch or agency on Septem-  
14 ber 13, 1995.

15 (2) NO ADDITIONAL BRANCHES.—Paragraph  
16 (1) shall not be construed as authorizing the estab-  
17 lishment, acquisition, or operation of any additional  
18 branch of a depository institution, or the conversion  
19 of any agency to a branch, in any State by virtue  
20 of the operation by such institution of a branch or  
21 agency in such State pursuant to such paragraph ex-  
22 cept to the extent such establishment, acquisition,  
23 operation, or conversion is permitted under the Fed-  
24 eral Deposit Insurance Act, Bank Holding Company

1 Act of 1956, and any other applicable Federal or  
2 State law.

3 (3) ESTABLISHING A BRANCH OF AGENCY.—

4 For purposes of paragraph (1), a savings association  
5 shall be treated as having been in the process of es-  
6 tablishing a branch or agency as of September 13,  
7 1995, if, as of such date, the savings association—

8 (A) had received approval from the Direc-  
9 tor of the Office of Thrift Supervision to estab-  
10 lish such branch or agency;

11 (B) had pending with the Director of the  
12 Office of Thrift Supervision an application or  
13 notice to establish such branch or agency;

14 (C) had a legal and contractual obligation  
15 to establish such branch or agency;

16 (D) had received authority from the appro-  
17 priate Federal banking agency to establish such  
18 branch in connection with the assumption of li-  
19 abilities or an acquisition of an insured deposi-  
20 tory institution pursuant to subsection (f) or  
21 (k) of section 13 of the Federal Deposit Insur-  
22 ance Act or section 408(m) of the National  
23 Housing Act (as in effect before the date of the  
24 enactment of the Financial Institutions Reform,  
25 Recovery, and Enforcement Act of 1989); or

1                   (E) in the case of a well capitalized depository institution, is able to demonstrate to the  
2                   appropriate Federal banking agency that the  
3                   savings association—  
4

5                   (i) had made a significant financial  
6                   commitment; and

7                   (ii) had taken legally binding action or  
8                   incurred a contractual obligation, in furtherance of the establishment of such  
9                   branch or agency.  
10

11           (d) TRANSITION PROVISION RELATING TO LIMITATIONS ON LOANS TO ONE BORROWER.—Section 5200 of  
12 the Revised Statutes of the United States (12 U.S.C. 84)  
13 is amended by adding at the end the following new subsection:  
14  
15

16           “(e) TRANSITION PROVISIONS FOR SAVINGS ASSOCIATIONS CONVERTING TO NATIONAL BANKS.—In the  
17 case of any depository institution which, as of September  
18 13, 1995, is a savings association (as defined in section  
19 3(b) of the Federal Deposit Insurance Act (as in effect  
20 on such date)) and becomes a national bank on or before  
21 January 1, 1998, any loan, or legally binding commitment  
22 to make a loan, made or entered into by such institution  
23 becomes a national bank may continue to be held without  
24

1 regard to any limitation contained in this section during  
2 the 3-year period beginning on such date.”.

3 (e) RIGHTS AND AUTHORITY OF BANKS RESULTING  
4 FROM CONVERSIONS OF SAVINGS ASSOCIATIONS.—

5 (1) IN GENERAL.—Upon conversion of a sav-  
6 ings association to a national or State bank in ac-  
7 cordance with this Act and the amendments made  
8 by this title or other provisions of law—

9 (A) the national or State bank shall suc-  
10 ceed to all rights, benefits, privileges, powers  
11 and franchises, and be subject to all the obliga-  
12 tions, duties, restrictions, and disabilities, of  
13 such savings association under any contract,  
14 agreement, document, or instrument in effect at  
15 the time of such conversion to which such sav-  
16 ings association was a party; and

17 (B) any reference to the savings associa-  
18 tion in any such contract, agreement, docu-  
19 ment, or instrument shall be deemed to be a  
20 reference to such national or State bank.

21 (2) TREATMENT OF BANK OR SAVINGS AS-  
22 SOCIATION.—If the application of paragraph (1)  
23 with respect to any national or State bank re-  
24 ferred to in such paragraph would—

1           (A) be inconsistent or in conflict with any  
2 contract, agreement, document, or instrument  
3 described in such paragraph;

4           (B) constitute a default under the con-  
5 tract, agreement, document, or instrument;

6           (C) cause such national or State bank to  
7 be in default or breach under any provision of  
8 the contract, agreement, document, or instru-  
9 ment, the national or State bank shall be  
10 deemed to be, and treated as, a savings associa-  
11 tion for purposes of the contract, agreement,  
12 document, or instrument.

13       (f) TRANSFER AND GRANDFATHER OF MUTUAL  
14 HOLDINGS COMPANIES.—

15           (1) SUPERVISION AND REGULATION OF MUTUAL  
16 HOLDINGS COMPANIES.—

17           (A) IN GENERAL.—The supervision and  
18 regulation of any mutual holding company in  
19 existence as of the date of the enactment of this  
20 Act is hereby transferred to the Board of Gov-  
21 ernors of the Federal Reserve System.

22           (B) TRANSITION RULES.—Mutual bank  
23 holding companies described in subparagraph  
24 (A) shall be subject to the regulations of the  
25 Director of the Office of Thrift Supervision, as

1 in effect on September 13, 1995, including part  
2 575 of chapter V of title 12 of the Code of Fed-  
3 eral Regulations (as in effect on such date),  
4 during the 3-year period beginning on the date  
5 of the enactment of the Thrift Charter Conver-  
6 sion Act of 1996.

7 (2) GRANDFATHER OF EXISTING FEDERAL MU-  
8 TUAL HOLDING COMPANIES.—

9 (A) IN GENERAL.—Any Federal mutual  
10 holding company in existence as of the date of  
11 the enactment of this Act shall be subject to  
12 section 4(k) of the Bank Holding Company Act  
13 of 1956 (as added by section 2222 of this title).

14 (B) TREATMENT UNDER 4(K).—Any treat-  
15 ment of a Federal mutual holding company  
16 under section 4(k) shall not be construed as a  
17 change in control unless, as a result of the  
18 transaction, the holding company no longer con-  
19 trols the entity.

20 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) AMENDMENTS TO THE FEDERAL DEPOSIT IN-  
22 SURANCE ACT.—

23 (1) Section 3(z) of the Federal Deposit Insur-  
24 ance Act (12 U.S.C. 1813(z)) is amended by strik-

1 ing “, the Director of the Office of Thrift Super-  
2 vision”.

3 (2) Section 8(b) of the Federal Deposit Insur-  
4 ance Act (12 U.S.C. 1818(b)) is amended by strik-  
5 ing paragraph (9).

6 (3) Section 13 of the Federal Deposit Insurance  
7 Act (12 U.S.C. 1823) is amended by striking sub-  
8 section (k).

9 (4) Subsections (c)(2) and (i)(2) of section 18  
10 of the Federal Deposit Insurance Act (12 U.S.C.  
11 1828) are each amended—

12 (A) in the subparagraph (B), by inserting  
13 “and” after the semicolon;

14 (B) in subparagraph (C), by striking “;  
15 and” and inserting a period; and

16 (C) by striking subparagraph (D).

17 (5) Section 18 of the Federal Deposit Insurance  
18 Act (12 U.S.C. 1828) is amended by striking sub-  
19 section (m).

20 (6) The Federal Deposit Insurance Act (12  
21 U.S.C. 1811 et seq.) is amended by striking 28.

22 (b) AMENDMENTS TO THE BANK HOLDING COMPANY  
23 ACT OF 1956.—

1           (1) Section 2 of the Bank Holding Company  
2       Act of 1956 (12 U.S.C. 1841) is amended by strik-  
3       ing subsections (i) and (j).

4           (2) Section 4(c)(8) of the Bank Holding Com-  
5       pany Act of 1956 (12 U.S.C. 1843(c)(8)) is amend-  
6       ed by striking the sentence preceding the penul-  
7       timate sentence.

8           (3) Section 4(f) of the Bank Holding Company  
9       Act of 1956 (12 U.S.C. 1843(f) is amended—

10           (A) in paragraph (2)(A)(i), by striking “or  
11       an insured institution” and all that follows  
12       through “of this subsection”;

13           (B) in paragraph (2)(A)(ii)—

14           (i) by striking “or a savings associa-  
15       tion” where such term appears in the por-  
16       tion of such paragraph which precedes sub-  
17       clause (I));

18           (ii) by inserting “and” at the end of  
19       subclause (VI);

20           (iii) by striking subclauses (VIII),  
21       (IX), and (X); and

22           (iv) by striking “(V), and (VIII)”,  
23       where such term appears in the portion of  
24       such paragraph which appears after the

1                   end of subclause (VII), and inserting “and  
2                   (V)””; and  
3                   (C) by striking paragraphs (10), (11),  
4                   (12), and (13).

5                   (4) Section 4(i) of the Bank Holding Company  
6           Act of 1956 (12 U.S.C. 1843(i)) is amended—

7                   (A) by striking paragraphs (1) and (2);  
8                   and

9                   (B) in paragraph (3)(A), by striking “any  
10           Federal savings association” and all that fol-  
11           lows through the period at the end of such  
12           paragraph and inserting “such association was  
13           authorized to engage under this section as of  
14           September 15, 1995.”

15           (c) OTHER TECHNICAL AND CONFORMING AMEND-  
16   MENTS.—

17                   (1) Section 804(a) of the Alternative Mortgage  
18           Transaction Parity Act of 1982 (12 U.S.C. 3803) is  
19           amended.—

20                   (A) in the portion of such subsection which  
21           precedes paragraph (1)—

22                           (i) by striking “, and other nonfeder-  
23                           ally chartered housing creditors,”; and

24                           (ii) by inserting “and in order to per-  
25                           mit other nonfederally chartered housing

1 creditors to make, purchase, and enforce  
2 alternative mortgage transactions,” after  
3 “enforcing alternative mortgage trans-  
4 actions,”; and

5 (B) in paragraph (1), by inserting “(as  
6 such term is defined in section 3(a) of the Fed-  
7 eral Deposit Insurance Act)” after “with re-  
8 spect to banks”.

9 (2) Section 205 of the Depository Institution  
10 Management Interlock Act (12 U.S.C. 3204) is  
11 amended.—

12 (A) in the portion of paragraph (8)(A)  
13 which precedes clause (i), by striking “diversi-  
14 fied savings” and all that follows through “with  
15 respect to” and inserting “depository institution  
16 holding company which, as of September 13,  
17 1995, and at all times thereafter, satisfies the  
18 consolidated net worth and consolidated net  
19 earnings requirements for a diversified savings  
20 and loan holding company (as set forth in sec-  
21 tion 10(1)(F) of Home Owners’ Loan Act, as  
22 such section is in effect on such date, which  
23 shall be applicable for purposes of this para-  
24 graph without regard to the fact that a deposi-  
25 tory institution subsidiary of such holding com-

1           pany has ceased to be a savings association  
2           after September 13, 1995) with respect to”;  
3           and

4                   (B) by striking paragraph (9).

5           (3) Section 19(b)(1)(A) of the Federal Reserve  
6           Act (12 U.S.C. 461(b)(1)(A)) is amended—

7                   (A) by inserting “and” after the semicolon  
8                   at the end of clause (v); and

9                   (B) by striking clause (vi).

10           (4) Subparagraphs (A), (B), and (C) of section  
11           10(e)(5) of the Federal Home Loan Bank Act (12  
12           U.S.C. 1430(e)(5)) are each amended by inserting  
13           before the period at the end “(as such section is in  
14           effect on September 13, 1995)”.

15   **SEC. 508. REFERENCES TO SAVINGS ASSOCIATIONS AND**  
16                   **STATE BANKS IN FEDERAL LAW.**

17           Effective January 1, 1998, any reference in any Fed-  
18           eral banking law to—

19                   (1) the term “savings association” shall be  
20                   deemed to be a reference to a bank as defined in  
21                   section 3(a) of the Federal Deposit Insurance Act;  
22                   and

23                   (2) the term “State bank” shall be deemed to  
24                   include any depository institution included in the

1 definition of such term in section 3(a)(2) of such  
2 Act.

3 **SEC. 509. REPEAL OF HOME OWNERS' LOAN ACT.**

4 The Home Owners' Loan Act (12 U.S.C. 1461 et  
5 seq.) is hereby repealed.

6 **SEC. 510. DEFINITIONS.**

7 For purposes of this subtitle, the terms “appropriate  
8 Federal banking agency”, “bank holding company”, “de-  
9 pository institution”, “Federal savings association”, “in-  
10 sured depository institution”, “savings association”, and  
11 “State bank” have the same meanings as in section 3 of  
12 the Federal Deposit Insurance Act (as in effect on the  
13 date of the enactment of this Act).

14 **Subtitle B—Elimination of Office of The**  
15 **Thrift Supervision**

16 **SEC. 511. OFFICE OF THRIFT SUPERVISION ABOLISHED.**

17 Effective January 1, 1998, the Office of Thrift Su-  
18 pervision and the position of Director of the Office of  
19 Thrift Supervision are hereby abolished.

20 **SEC. 512. DETERMINATION OF TRANSFERRED FUNCTIONS**  
21 **AND EMPLOYEES.**

22 (a) ALL OFFICE OF THRIFT SUPERVISION EMPLOY-  
23 EES SHALL BE TRANSFERRED.—All employees of the Of-  
24 fice of Thrift Supervision shall be identified for transfer  
25 under subsection (b) to the Office of the Comptroller of

1 the Currency, the Federal Deposit Insurance Corporation,  
2 or the Board of Governors of the Federal Reserve System.

3 (b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

4 (1) IN GENERAL.—The Director of the Office of  
5 Thrift Supervision, the Comptroller of the Currency,  
6 the Chairperson of the Federal Deposit Insurance  
7 Corporation, and the Chairman of the Board of Gov-  
8 ernors of the Federal Reserve System shall jointly  
9 determine the functions or activities of the Office of  
10 Thrift Supervision, and the number of employees of  
11 such Office necessary to perform or support such  
12 functions or activities, which are transferred from  
13 the Office to the Office of the Comptroller of the  
14 Currency, the Federal Deposit Insurance Corpora-  
15 tion, or the Board of Governors of the Federal Re-  
16 serve System, as the case may be.

17 (2) ALLOCATION OF EMPLOYEES.—The Comp-  
18 troller of the Currency, the Chairperson of the Fed-  
19 eral Deposit Insurance Corporation, and the Chair-  
20 man of the Board of Governors of the Federal Re-  
21 serve System shall allocate the employees of the Of-  
22 fice of Thrift Supervision consistent with the num-  
23 ber determined pursuant to paragraph (1) in a man-  
24 ner which such Comptroller, Chairperson, and Chair-  
25 man, in their sole discretion, deem equitable except

1       that, within work units, the agency preferences of  
2       individual employees shall be accommodated as far  
3       as possible.

4       (c) RIGHTS OF EMPLOYEES OF THE OFFICE OF  
5       THRIFT SUPERVISION.—All employees of the Office of  
6       Thrift Supervision who are identified for transfer under  
7       subsection (b) shall be entitled to the following rights:

8               (1) Each employee so identified shall be trans-  
9       ferred to the appropriate agency or entity for em-  
10      ployment no later than the earlier of the end of the  
11      60-day period beginning on the date such employees  
12      are identified for transfer under subsection (b) or  
13      January 1, 1998, and such transfer shall be deemed  
14      a transfer of function for the purpose of section  
15      3503 of title 5, United States Code.

16              (2) Each transferred employee holding a perma-  
17      nent position shall not be involuntarily separated or  
18      reduced in grade or compensation for 1 year after  
19      the date of transfer, except for cause or, if the em-  
20      ployee is a temporary employee, separated in accord-  
21      ance with the terms of the appointment.

22              (3) If any agency or entity to which employees  
23      are transferred determines, after the end of the 1-  
24      year period beginning on the date the transfer of  
25      functions to such agency or entity is completed, that

1 a reorganization of the combined work force is re-  
2 quired, that reorganization shall be deemed a “major  
3 reorganization” for purposes of affording affected  
4 employees retirement under section 833(d)(2) or  
5 8414(b)(1)(B) of title 5, United States Code.

6 (d) DISPOSITION OF AFFAIRS.—

7 (1) IN GENERAL.—In winding up the affairs of  
8 the Office of Thrift Supervision, the Director of the  
9 Office of Thrift Supervision shall consult and co-  
10 operate with the Comptroller of the Currency, the  
11 Federal Deposit Insurance Corporation, and the  
12 Board of Governors of the Federal Reserve System,  
13 as the case may be, to facilitate the orderly transfer  
14 of the functions to such Comptroller, Corporation, or  
15 Board.

16 (2) CONTINUING AUTHORITY OF DIRECTOR OF  
17 THE OFFICE OF THRIFT SUPERVISION.—Except as  
18 provided in paragraph (1), no provision of this sub-  
19 title shall be construed as affecting the authority  
20 vested in the Director of the Office of Thrift Super-  
21 vision before the date of enactment of this Act which  
22 is necessary to carry out the duties of the position  
23 until the date upon which the position of Director of  
24 the Office of Thrift Supervision is abolished.

1           (3) CONTINUATION OF AGENCY SERVICES.—

2           Any agency, department, or other instrumentality of  
3           the United States, or any successor to any such  
4           agency, department or instrumentality, which was  
5           providing support services to the Director of the Of-  
6           fice of Thrift Supervision on the day before the date  
7           such position is abolished shall—

8                   (A) continue to provide such services on a  
9                   reimbursable basis, in accordance with the  
10                  terms of the arrangement pursuant to which  
11                  such services were provided until the arrange-  
12                  ment is modified or terminated in accordance  
13                  with such terms, except that effective January  
14                  1, 1998, the Comptroller of the Currency, the  
15                  Federal Deposit Insurance Corporation, or the  
16                  Board of Governors of the Federal Reserve Sys-  
17                  tem, as the case may be, shall be substituted  
18                  for the Director of the Office of Thrift Super-  
19                  vision as a party to the arrangement; and

20                   (B) consult with the Comptroller, the Cor-  
21                  poration, or the Board to coordinate and facili-  
22                  tate a prompt and reasonable transition.

23           (e) TRANSFER OF PROPERTY.—Effective January 1,  
24           1998, all property of the Office of Thrift Supervision shall  
25           be transferred to the Comptroller of the Currency, the

1 Federal Deposit Insurance Corporation, or the Board of  
2 Governors of the Federal Reserve System, as determined  
3 in accordance with subsections (a) and (b).

4 **SEC. 513. SAVINGS PROVISIONS.**

5 (a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS  
6 NOT AFFECTED.—No provision of this title shall be con-  
7 strued as affecting the validity of any right, duty or obliga-  
8 tion of the United States, the Director of the Office of  
9 Thrift Supervision, or any person, which existed on the  
10 day before the date upon which the position of Director  
11 of the Office of Thrift Supervision and the Office of Thrift  
12 Supervision are abolished.

13 (b) CONTINUATION OF SUITE.—No action or other  
14 proceeding commenced by or against the Director of the  
15 Office of Thrift Supervision shall abate by reason of enact-  
16 ment of this title, except that, effective January 1, 1998,  
17 the Comptroller of the Currency, the Federal Deposit In-  
18 surance Corporation, or the Board of Governors of the  
19 Federal Reserve System, as the case may be, shall be sub-  
20 stituted as a party to any such action or proceeding.

21 (c) CONTINUATION OF ADMINISTRATIVE RULES.—  
22 All orders, resolutions, determinations, regulations, inter-  
23 pretative rules, other interpretations, guidelines, proce-  
24 dures, supervisory and enforcement actions, and other ad-  
25 visory material (other than any regulation implementing

1 or prescribed pursuant to section 3(f) of the Home Own-  
2 ers' Loan Act (as in effect on September 13, 1995))  
3 which—

4 (1) have been issued, made, prescribed, or per-  
5 mitted to become effective by the Office of Thrift  
6 Supervision, and

7 (2) are in effect on December 31, 1997 (or be-  
8 come effective after such date pursuant to the terms  
9 of the order, resolution, determination, rule, other  
10 interpretation, guideline, procedure, supervisory or  
11 enforcement action, and other advisory material, as  
12 in effect on such date), shall—

13 (A) continue in effect according to the  
14 terms of such orders, resolutions, determina-  
15 tions, regulations, interpretative rules, other in-  
16 terpretations, guidelines, procedures, super-  
17 visory or enforcement actions, or other advisory  
18 material;

19 (B) be administered by the Comptroller of  
20 the Currency, the Federal Deposit Insurance  
21 Corporation, or the Board of Governors of the  
22 Federal Reserve System; and

23 (C) be enforceable by or against the Comp-  
24 troller of the Currency, the Federal Deposit In-  
25 surance Corporation, or the Board of Governors

1 of the Federal Reserve System until modified,  
2 terminated, set aside, or superseded in accord-  
3 ance with applicable law by the Comptroller,  
4 Corporation, or Board, by any court of com-  
5 petent jurisdiction, or by operation of law.

6 (d) TREATMENT OF REFERENCES IN ADJUSTABLE  
7 RATE MORTGAGES ISSUED BEFORE FIRREA.—

8 (1) REFERENCES IN PRIOR LAW.—For purposes  
9 of section 402(e) of Financial Institutions Reform,  
10 Recovery, and Enactment Act of 1989 (12 U.S.C.  
11 1437 note), any reference in such section to—

12 (A) the Director of the Office of Thrift Su-  
13 pervision shall be deemed to be a reference to  
14 the Secretary of the Treasury; and

15 (B) a Savings Association Insurance Fund  
16 member shall be deemed to be a reference to an  
17 insured depository institution (as defined in sec-  
18 tion 3 of the Federal Deposit Insurance Act).

19 (e) TREATMENT OF REFERENCES IN ADJUSTABLE  
20 RATE MORTGAGES INSTRUMENTS ISSUED AFTER  
21 FIRREA.—

22 (1) IN GENERAL.—For purposes of adjustable  
23 rate mortgage instruments that are in effect as of  
24 the date of enactment of this Act, any reference in  
25 the instrument to the Director of the Office of

1 Thrift Supervision or Savings Association Insurance  
2 Fund members shall be treated as a reference to the  
3 Secretary of the Treasury or insured depository in-  
4 stitutions (as defined in section 3 of the Federal De-  
5 posit Insurance Act), as appropriate.

6 (2) SUBSTITUTION FOR INDEXES.—If any index  
7 used to calculate the applicable interest rate on any  
8 adjustable rate mortgage instrument is no longer  
9 calculated and made available as a direct or indirect  
10 result of the enactment of this title, any index—

11 (A) made available by the Secretary of the  
12 Treasury; or

13 (B) determined by the Secretary of the  
14 Treasury, pursuant to paragraph (4), to be sub-  
15 stantially similar to the index which is no  
16 longer calculated or made available,

17 may be substituted by the holder of any such adjust-  
18 able rate mortgage instrument upon notice to the  
19 borrower.

20 (3) AGENCY ACTION REQUIRED TO PROVIDE  
21 CONTINUED AVAILABILITY OF INDEXES.—Promptly  
22 after the enactment of this subsection, the Secretary  
23 of the Treasury, the Chairperson of the Federal De-  
24 posit Insurance Corporation, and the Comptroller of  
25 the Currency shall take such action as may be nec-

1       essary to assure that the indexes prepared by the  
2       Director of the Office of Thrift Supervision imme-  
3       diately before the enactment of this subsection and  
4       used to calculate the interest rate on adjustable rate  
5       mortgage instruments continue to be available.

6               (4) REQUIREMENTS RELATING TO SUBSTITUTE  
7       INDEXES.—If any agency can no longer make avail-  
8       able an index pursuant to paragraph (3), an index  
9       that is substantially similar to such index may be  
10      substituted for such index for purposes of paragraph  
11      (2) if the Secretary of the Treasury determines,  
12      after notice and opportunity for comment, that—

13               (A) the new index is based upon data sub-  
14      stantially similar to that of the original index;  
15      and

16               (B) the substitution of the new index will  
17      result in an interest rate substantially similar to  
18      the rate in effect at the time the original index  
19      became unavailable.

20   **SEC. 514. COST OF FUNDS INDEXES.**

21       (a) COST OF FUNDS INDEX DEFINED.—The term  
22      “cost of funds indexed” means any index that is published  
23      by a Federal home loan bank and is based, in whole or  
24      in part, upon the cost of funds of such bank’s members.

1 (b) CALCULATIONS BASED ON TYPE OF CHARTER  
2 AND INSURANCE FUND MEMBERSHIP OF MEMBERS.— If  
3 any cost of funds index includes data based on charter  
4 type, insurance fund membership, or other similar charac-  
5 teristics of members of a Federal home loan bank, such  
6 index shall be calculated after the date of the enactment  
7 of this Act using data only from insured depository insti-  
8 tutions which were bank members and whose data was in-  
9 cluded in such index on or before such date of enactment.

10 (c) ACQUISITION OF DATA.—

11 (1) IN GENERAL.—Each insured depository in-  
12 stitution the data from which is required to compile  
13 a cost of funds index in accordance with subsection  
14 (b) shall provide to the Federal home loan bank  
15 which maintains the index such information as may  
16 be necessary, and in such form as may be appro-  
17 priate, for the bank to calculate and publish the  
18 index.

19 (2) ENFORCEMENT BY BANKING AGENCIES.—  
20 Each appropriate Federal banking agency shall take  
21 such action as may be necessary to ensure that in-  
22 sured depository institutions which are required to  
23 provide information to any Federal home loan bank  
24 under paragraph (1) furnish such information on a  
25 timely basis and in the form required by the bank.

1           (3) TREATMENT OF INSTITUTIONS.—Notwith-  
2           standing any other provision of law, an insured de-  
3           pository institution which furnishes information to a  
4           Federal home loan bank pursuant to this section for  
5           use in compiling a cost of funds index shall not be  
6           deemed to control, directly, or indirectly, such index.

7           (d) CERTAIN DATA EXCLUDED.—Notwithstanding  
8           subsections (b) and (c), no cost of funds index shall in-  
9           clude any data from any insured depository institution  
10          which results from the merger, consolidation, or other  
11          combination of a member of a Federal home loan bank  
12          with a nonmember of any such bank if—

13           (1) the total assets of the nonmember exceed  
14           the total assets of the bank member at the time of  
15           such merger, consolidation, or other combination; or

16           (2) in the case of a merger, consolidation, or  
17           other merger in which a member of a Federal home  
18           loan bank is the resulting insured depository institu-  
19           tion, combined ratio of the average amount of sin-  
20           gle-family loan balances to average total assets of all  
21           insured depository institutions involved in such  
22           merger, consolidation, or other combination for the  
23           12-months period ending on the date of such trans-  
24           action is less than 70 percent.

1 (e) OTHER DEFINITIONS.—For purposes of this sec-  
 2 tion, the terms “appropriate Federal banking agency” and  
 3 “insured depository institution” shall have the same  
 4 meanings as in section 3 of the Federal Deposit Insurance  
 5 Act.

6 **SEC. 515. REFERENCES IN FEDERAL LAW TO DIRECTOR OF**  
 7 **THE OFFICE OF THRIFT SUPERVISION.**

8 Effective January 1, 1998, any reference in any Fed-  
 9 eral law to the Director of the office of Thrift Supervision  
 10 or the Office of Thrift supervision shall be deemed to be  
 11 a reference to the appropriate Federal banking agency (as  
 12 defined in section 3(q) of the Federal Deposit insurance  
 13 Act).

14 **SEC. 516. RECONFIGURATION OF BOARD OF DIRECTORS OF**  
 15 **FDIC AS A RESULT OF REMOVAL OF DIREC-**  
 16 **TOR OF THE OFFICE OF THRIFT SUPER-**  
 17 **VISION.**

18 (a) IN GENERAL.—Section 2(a)(1) of the Federal  
 19 Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended  
 20 to read as follows:

21 “(1) IN GENERAL.—The management of the  
 22 Corporation shall be vested in a Board of Directors  
 23 consisting of 5 members—

24 (A) 1 of whom shall be the Comptroller of  
 25 the Currency; and

1 (B) 4 of whom shall be appointed by the  
 2 President, and with the advice and consent of  
 3 the Senate, from among individuals who are  
 4 citizens of the United States, 1 of whom shall  
 5 have State bank supervisory experience”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) Section 2(d)(2) of the Federal Deposit In-  
 8 surance Act (12 U.S.C. 1812(d)(2)) is amended—

9 (A) by striking “or the Office of Director  
 10 of the Office of Thrift Supervision”;

11 (B) by striking “or such Director”;

12 (C) by striking “or the acting Director of  
 13 the Office of Thrift Supervision, as the case  
 14 may be”; and

15 (D) by striking “or Director”.

16 (2) Section 2(f)(2) of the Federal Deposit In-  
 17 surance Act (12 U.S.C. 1812(f)(2)) is amended by  
 18 striking “or of the Office of Thrift Supervision”.

19 (c) EFFECTIVE DATE.—The amendments made by  
 20 subsections (a) and (b) shall take effect on January 1,  
 21 1998.

## 22 **Subtitle C—Merger of BIF and SAIF**

### 23 **SEC. 521. AMENDMENT TO BUDGET RECONCILIATION ACT.**

24 Section 2013(c) of the Budget Reconciliation Act is  
 25 amended to read as follows:

1       “(c) EFFECTIVE DATE.—This section and the  
2 amendments made by this section shall become effective  
3 on January 1, 1997.”.

4       **TITLE VI—NATIONAL MARKET FUNDING**  
5               **LENDING INSTITUTIONS**

6       **SEC. 601. NATIONAL MARKET FUNDED LENDING INSTITU-**  
7               **TIONS.**

8       Chapter 1 of title LXII of the Revised Statutes of  
9 the United States is amended by adding the following sec-  
10 tion:

11       **“SEC. 5158. NATIONAL MARKET FUNDED LENDING INSTITU-**  
12               **TIONS.**

13       “(a) NATIONAL MARKET FUNDED LENDING INSTI-  
14 TUTIONS.—

15               “(1) ORGANIZATION OF NATIONAL MARKET  
16 FUNDED LENDING INSTITUTIONS.—Any company  
17 (as defined in section 2(b) of the Bank Holding  
18 Company Act of 1956 (12 U.S.C. 1841(b)) or any  
19 number of natural persons, not less in any case than  
20 five, may apply to the Comptroller of the Currency  
21 on such forms and in accordance with such proce-  
22 dures as the Comptroller may prescribe by regula-  
23 tion, for permission to organize a national market  
24 funded lending institution. Upon approval of the ap-  
25 plication, such national market funded lending insti-

1       tution shall be a body corporate, chartered under the  
2       laws of the United States by the Comptroller. All  
3       national market funded lending institutions shall op-  
4       erate pursuant to the requirements of this section at  
5       the direction of a board of directors elected at an or-  
6       ganizational meeting to be held as soon as prac-  
7       ticable after issuance by the Comptroller of a charter  
8       by such company or such natural persons for the  
9       purpose of electing such board of directors and tak-  
10      ing such other action necessary, pursuant to the  
11      charter and the regulations issued by the Comptrol-  
12      ler, to complete the corporate organization of the na-  
13      tional market funded lending institution. Imme-  
14      diately following their election, the board of directors  
15      shall meet to elect officers of the national market  
16      funded lending institution and to take such other ac-  
17      tion, as prescribed by the Comptroller, to complete  
18      the corporate organization of such national market  
19      funded lending institution.

20           “(2) UNAUTHORIZED ORGANIZATION PROHIB-  
21      ITED.—No company or person may organize a na-  
22      tional market funded lending institution, collect  
23      money from others for such purpose, or represent it-  
24      self, himself, or herself as authorized to do so and  
25      no national market funded lending institution shall

1 transact any business prior to completion of its or-  
2 ganization except as provided in this Act and in im-  
3 plementing regulations of the Comptroller.

4 “(3) AUTHORIZED ACTIVITIES FOR NATIONAL  
5 MARKET-FUNDED LENDING INSTITUTION.—Subject  
6 to the provisions of paragraphs (4) and (5) of this  
7 subsection, and subsections (b) and (c) of this sec-  
8 tion, a national market funded lending institution  
9 may exercise, in accordance with its articles of orga-  
10 nization and such regulations as are issued by the  
11 Comptroller, all of the powers and privileges of a na-  
12 tional banking association formed in accordance with  
13 section 5133 of the Revised Statutes (12 U.S.C. 21).

14 “(4) PROHIBITION OF TAKING DEPOSITS OR  
15 RECEIVING FEDERAL DEPOSIT INSURANCE.—No na-  
16 tional market funded lending institution may—

17 (A) become an “insured depository institu-  
18 tion” within the meaning of section 3(c)(2) of  
19 the Federal Deposit Insurance Act (12 U.S.C.  
20 1813(c)(2)) or acquire, directly or indirectly  
21 through a subsidiary, control of such an insured  
22 depository institution;

23 (B) accept any deposits as defined in sec-  
24 tion (3)(l)(1) of the Federal Deposit Insurance  
25 Act (12 U.S.C. 1813(l)(1));

1 (C) advertise or hold itself out as having  
2 deposits insured by the Federal Deposit Insur-  
3 ance Corporation.

4 “(5) PROHIBITION ON ACCESS TO DISCOUNT  
5 WINDOW.—No national market funded lending insti-  
6 tution may exercise discount borrowing privileges  
7 pursuant to section 19\*b)(7) of the Federal Reserve  
8 Act.

9 “(6) PROHIBITION ON ACCESS TO PAYMENTS  
10 SYSTEM.—No national market funded lending insti-  
11 tution may obtain payment or payment related serv-  
12 ices from any Federal Reserve bank, including any  
13 service referred to in section 11A of the Federal Re-  
14 serve Act.

15 “(7) CAPITAL.—The capital of national market  
16 funded lending institution shall be maintained at all  
17 times at such level and in such manner as may be  
18 prescribed by the Comptroller by regulation.

19 “(8) PROHIBITION ON IDENTIFICATION AS A  
20 BANK.—

21 “(A) In general.—Notwithstanding the re-  
22 quirement of section 5134 of the Revised Stat-  
23 utes of the United States—

1 “(i) the name of a national market  
2 lending institution may not include the  
3 term “bank”; and

4 “(ii) such institution may not be iden-  
5 tified as a bank on any sign displayed by  
6 the institution or in any advertisement or  
7 other publication of the institution.

8 “(B) DEPOSITORY INSTITUTION NOT LIA-  
9 BLE FOR FRAUDULENT MISREPRESENTATION  
10 FOR NOT REPRESENTING ITSELF AS A BANK.—  
11 A national market lending institution shall not  
12 be liable for any civil or criminal penalty under  
13 any Federal or State consumer protection law,  
14 or in any criminal or civil action, for falsely ad-  
15 vertising the status of the institution, for mak-  
16 ing a false statement with respect to the status  
17 of the institution, or for any similar offense by  
18 reason of the institution’s compliance with this  
19 paragraph.

20 “(9) IMPLEMENTING REGULATIONS.—The  
21 Comptroller shall promulgate such regulations as  
22 may be necessary to implement the provisions of this  
23 section.

24 “(b) REGULATION AND SUPERVISION OF NATIONAL  
25 MARKET FUNDED LENDING INSTITUTION.—

1           “(1) AUTHORITY VESTED IN COMPTROLLER OF  
2           THE CURRENCY.—Notwithstanding any other provi-  
3           sion of law, the authority to regulate and supervise  
4           the activities of national market funding lending in-  
5           stitutions shall be vested exclusively in the Comptrol-  
6           ler of the Currency.

7           “(2) EXAMINATION.—Each national market  
8           funded lending institution and each subsidiary there-  
9           of shall be subject to such examinations and to such  
10          reporting and recordkeeping requirements as the  
11          Comptroller may prescribe. The cost of examinations  
12          shall be assessed against and paid by such national  
13          market funded lending institution. Examiners ap-  
14          pointed by the Comptroller for the purposes of this  
15          Act shall be subject to the same requirements, re-  
16          sponsibilities, and penalties as are applicable to ex-  
17          aminers under the Federal Reserve Act and title  
18          LXII of the Revised Statutes and shall have, in the  
19          exercise of functions under this Act, the same pow-  
20          ers and privileges as are vested in such examiners  
21          by law. If any national market funded lending insti-  
22          tution fails to pay any assessment required under  
23          this subsection within 60 days of such assessment,  
24          or refuses to permit any examiner appointed by the  
25          Comptroller to make an examination, or refuses to

1 provide any information required to be disclosed by  
2 regulation or in the course of any examination, or  
3 submits or publishes any false or misleading report  
4 or information, the Comptroller may assess against  
5 such national market funded lending institution civil  
6 penalty of not more than \$5,000 for each day any  
7 such failure or refusal continues. And such civil pen-  
8 alty shall be assessed by the Comptroller in a man-  
9 ner prescribed in subparagraphs (E), (F), (G), (I)  
10 and (J) of section 8(i)(2) of the Federal Deposit In-  
11 surance Act, for penalties imposed by such section,  
12 and such assessment shall also be subject to the pro-  
13 visions of subparagraph (H) of that section and of  
14 section 8(h) of that Act.

15 “(3) ENFORCEMENT.—

16 “(A) CAPITAL.—If any national market  
17 funded lending institution fails to maintain cap-  
18 ital at or above the minimum level prescribed  
19 by the Comptroller’s regulations, the Comptrol-  
20 ler may issue a directive requiring the national  
21 market funded lending institution to submit  
22 and adhere to a plan for increasing capital  
23 which is acceptable to the Comptroller. Any  
24 such directive, and such plan when approved by

1 the Comptroller, shall be enforceable as pro-  
2 vided in this paragraph.

3 “(B) CEASE-AND-DESIST AUTHORITY.—If  
4 a national market funded lending institution  
5 subject to a capital directive issued pursuant to  
6 subparagraph (A) fails to submit or adhere to  
7 a plan for increasing capital which is acceptable  
8 to the Comptroller, or if the Comptroller has  
9 reasonable cause to believe that any national  
10 market funded lending institution has accepted  
11 any deposit or has taken action which has  
12 caused it to become an “insured depository in-  
13 stitution” within the meaning of section 3(c)(2)  
14 of the Federal Deposit Insurance Act or has  
15 represented to any person that any amount ac-  
16 cepted by such national market funded lending  
17 institution is an “insured deposit” within the  
18 meaning of section 3(m) of Federal Deposit In-  
19 surance Act, the Comptroller may issue and  
20 serve upon such national market funded lending  
21 institution a notice of charges which shall con-  
22 tain a statement of the facts constituting the  
23 alleged violation or violations of this Act and  
24 shall fix a time and a place at which a hearing  
25 will be held to determine whether an order to

1           cease-and-desist   therefrom   should   be   issued  
2           against the national market funded lending in-  
3           stitution. Such hearing shall be fixed for a date  
4           not earlier than 30 days nor later than 60 days  
5           after service of such notice unless an earlier or  
6           later date is set by the Comptroller at the re-  
7           quest of the national market funded lending in-  
8           stitution. Unless the institution so served shall  
9           appear at the hearing, it shall be deemed to  
10          have consented to the issuance of the cease-and-  
11          desist order. In the event of such consent, or if  
12          upon the record made at any such hearing the  
13          Comptroller shall find that any violation or vio-  
14          lations specified in the notice of charges has or  
15          have been established, the Comptroller may  
16          issue an order to cease-and-desist from any  
17          such violation or violations and, in an appro-  
18          priate case as determined by the Comptroller in  
19          his or her discretion, to take affirmative action  
20          to correct the conditions resulting from any  
21          such violation or violations. Such order shall be-  
22          come effective at the expiration of 30 days after  
23          service thereof upon the national market funded  
24          lending institution (except in the case of a  
25          cease-and-desist order issued upon consent,

1 which shall become effective at the time speci-  
2 fied therein), and shall remain effective and en-  
3 forceable, as provided therein except as stayed,  
4 modified, terminated or set aside by action of  
5 the Comptroller or reviewing court. Any hearing  
6 provided for in this subsection and judicial re-  
7 view of any final cease-and-desist order (other  
8 than a cease-and-desist order issued upon con-  
9 sent, which shall be unreviewable) shall be in  
10 accordance with the provisions of section 8(h)  
11 of the Federal Deposit Insurance Act.

12 “(C) CIVIL MONEY PENALTY.—Any person  
13 who violates, or has caused a national market  
14 funded lending institution to violate any cease-  
15 and-desist order issued pursuant to subpara-  
16 graph (B) shall forfeit and pay a civil penalty  
17 of not more than \$100,000 for each day during  
18 which such violation continues. Any such civil  
19 penalty shall be assessed and collected by the  
20 Comptroller in the manner provided in subpara-  
21 graphs (E), (F), (G), (I), and (J) of section  
22 8(i)(2) of the Federal Deposit Insurance Act,  
23 and any such assessment shall be subject to the  
24 provisions of subparagraph (H) of that section  
25 and of section 8(h) of that Act.

1           “(D) CHARTER REVOCATION.—If the  
2           Comptroller determines that any national mar-  
3           ket funded lending institution has violated any  
4           cease-and-desist order which was issued under  
5           subparagraph (B) of this paragraph and which  
6           has become final, the Comptroller may, in addi-  
7           tion to or in lieu of any other remedies provided  
8           by law, issue an order revoking the charter of  
9           such national market funded lending institu-  
10          tion. Any order revoking the charter of a na-  
11          tional market funded lending institution shall  
12          be effected within 20 days of service upon such  
13          national market funded lending institution un-  
14          less stayed, modified, terminated or set aside by  
15          a court in proceedings authorized in this sub-  
16          paragraph. The national market funded lending  
17          institution shall give notice of such revocation  
18          order to each of its depositors in such manner  
19          and at such times as the Comptroller may deem  
20          necessary and may order for the protection of  
21          the depositors. Any national market funded  
22          lending institution served with an order revok-  
23          ing its charter, may, within 10 days of the date  
24          of service of such order, apply to the United  
25          States District Court for the District of Colum-

1           bia or the United States District Court for the  
2           judicial district in which the home office of such  
3           national market funded lending institution is lo-  
4           cated for an injunction setting aside, limiting,  
5           modifying, or suspending the enforcement, oper-  
6           ation, or effectiveness of such order, and such  
7           court shall have jurisdiction to issue such in-  
8           junction. Failure to seek judicial review within  
9           such 10 day period shall constitute a waiver  
10          thereof and shall constitute consent by the na-  
11          tional market funded lending institution or any  
12          company which controls such national market  
13          funded lending institution to the issuance of a  
14          final order of revocation of its charter.

15       “(c) CRIMINAL PENALTIES.—

16           “(1) UNAUTHORIZED ORGANIZATION.—Any  
17          person who violates the provisions of this title or any  
18          regulation or order issued by the Comptroller pursu-  
19          ant hereto by knowingly organizing a national mar-  
20          ket funded lending institution, collecting money from  
21          others for such purpose, or representing himself or  
22          herself as authorized to do so, or transacting busi-  
23          ness as a national market lending institution, with-  
24          out a validly issued and unrevoked charter from the  
25          Comptroller of the Currency, or, in the case of a na-

1        tional market funded lending institution which has  
2        had its charter revoked, by failing to give notice to  
3        depositors of charter revocation when and as di-  
4        rected by the Comptroller under this section, shall  
5        be imprisoned not more than one year, fined not  
6        more than \$100,000 for each day during which such  
7        violation continues, or both.

8            “(2) VIOLATION OF ACTIVITIES LIMITATION.—  
9        Whoever violates this section by knowingly causing  
10       a national market funded lending institution to ac-  
11       cept any deposit or by representing to any person  
12       that any deposit accepted by such national market  
13       funded lending institution is an “insured deposit”  
14       within the meaning of section 3(m) of Federal De-  
15       posit Insurance Act (12 U.S.C. 1813(m)) shall be  
16       imprisoned not more than 5 years, fined not more  
17       than \$500,000 per day for each day during which  
18       such violation continues, or both.

19           “(3) VIOLATION DEFINED.—For purposes of  
20       this section, the term “violation” includes any action  
21       (alone or with another or others) for or toward caus-  
22       ing, bringing about, participating in, counseling or  
23       aiding or abetting a violation.

24           “(d) VOLUNTARY LIQUIDATION.—A national market  
25       funded lending institution may go into voluntary liquida-

1 tion and be closed by a vote of its shareholders owning  
2 two-thirds of its stock, pursuant to sections 5220 and  
3 5221 of the Revised States (12 U.S.C. 181, 182).

4 “(e) CONSERVATORSHIP.—The Comptroller may ap-  
5 point a conservator to take possession and control of a  
6 national market funded lending institution pursuant to the  
7 Bank Conservation Act (12 U.S.C. 201 et seq.).

8 “(f) CONVERSIONS OF DEPOSITORY INSTITUTIONS  
9 INTO NATIONAL MARKET FUNDED LENDING INSTITU-  
10 TIONS.—Any depository institution (as defined in section  
11 3(c)(1) of the Federal Deposit Insurance Act) may, by the  
12 vote of its shareholders owning not less than two-thirds  
13 of the stock of such depository institution, and with the  
14 approval of the Comptroller upon such terms as he or she  
15 shall determine are necessary to further the purposes of  
16 this section, be converted into a national market funded  
17 lending institution, provided, however that said conversion  
18 shall not be in contravention of any applicable State law.  
19 Such national market funded lending institution shall have  
20 the same powers and privileges and shall be subject to the  
21 same duties, liabilities and regulations in all respects, as  
22 national market funded lending institutions originally or-  
23 ganized under this section.”.

1                   **TITLE VII—EFFECTIVE DATE**

2   **SEC. 701. EFFECTIVE DATE.**

3           This Act shall become effective on January 1, 1997.

